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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

LISA MCCARTHY, MARY KATHERINE
 ARCELL, CHRISTINE M WHALEN, KEITH
 DEAN BRADT, JOSE BRITO, JAN-MARIE
 BROWN, ROSEMARY D'AUGUSTA,
 BRENDA DAVIS, PAMELA FAUST,
 CAROLYN FJORD, DONALD C.
 FREELAND, DONALD FRYE, GABRIEL
 GARAVANIAN, HARRY GARAVANIAN,
 YVONNE JOCELYN GARDNER, VALARIE
 JOLLY, MICHAEL MALANEY, LENARD
 MARAZZO, TIMOTHY NIEBOER,
 DEBORAH PULFER, BILL RUBINSOHN,
 SONDRRA RUSSELL, JUNE STANSBURY,
 CLYDE DUANE STENSRUD, JUDITH ANN
 BRAY, GARY TALEWSKY, DIANA LYNN
 ULTICAN

Plaintiffs,

v.

INTERCONTINENTAL EXCHANGE, INC.,
 INTERCONTINENTAL EXCHANGE
 HOLDINGS, INC., ICE BENCHMARK
 ADMINISTRATION LIMITED, ICE DATA
 SERVICES, INC., ICE PRICING AND
 REFERENCE DATA LLC, BANK OF
 AMERICA, N.A., BANK OF AMERICA
 CORPORATION, BARCLAYS BANK, PLC,
 BARCLAYS CAPITAL, INC., CITIBANK,
 N.A., CITIGROUP, INC., CITIGROUP

CASE NO.: 3:20-cv-5832-JD

**FIRST AMENDED
 COMPLAINT FOR
 PERMANENT INJUNCTION
 AND FOR DAMAGES
 AGAINST DEFENDANTS'
 VIOLATIONS OF §§ 1 AND 2
 OF THE SHERMAN
 ANTITRUST ACT, 15 U.S.C. §§
 1, 2**

JURY TRIAL DEMANDED

GLOBAL MARKETS, INC.,
 COÖPERATIEVE RABOBANK U.A.,
 CREDIT SUISSE GROUP AG, CREDIT
 SUISSE AG, DEFENDANT CREDIT SUISSE
 SECURITIES (USA) LLC, DEUTSCHE
 BANK AG, DEUTSCHE BANK
 SECURITIES INC., HSBC HOLDINGS PLC,
 HSBC BANK PLC, HSBC BANK USA, N.A.,
 HSBC SECURITIES (USA) INC.,
 JPMORGAN CHASE & CO., JPMORGAN
 CHASE BANK, N.A., J.P. MORGAN
 SECURITIES LLC, LLOYDS BANK PLC,
 LLOYDS SECURITIES INC., MUFG BANK,
 LTD., THE BANK OF TOKYO-
 MITSUBISHI UFJ LTD., MITSUBISHI UFJ
 FINANCIAL GROUP INC., MUFG
 SECURITIES AMERICAS INC., ROYAL
 BANK OF SCOTLAND GROUP PLC,
 ROYAL BANK OF SCOTLAND PLC,
 NATIONAL WESTMINSTER BANK PLC,
 NATWEST MARKETS SECURITIES INC.,
 SUMITOMO MITSUI BANKING
 CORPORATION, SUMITOMO MITSUI
 FINANCIAL GROUP INC., SUMITOMO
 MITSUI BANKING CORPORATION
 EUROPE LTD., SMBC CAPITAL
 MARKETS, INC., UBS GROUP AG, UBS
 AG, AND UBS SECURITIES LLC,

Defendants.

1. In August of 2020, the Plaintiffs filed their complaint and motion for an order to show cause why the Defendants should not be prohibited from fixing the price of an agreed formula to fix the LIBOR intra bank interest rate, said to be the most important number in the world, affecting, as claimed by a senior executive of JPMorgan, more than \$400 Trillion (\$400,000,000,000,000) in financial instruments throughout the world, specifically including consumer products such as mortgages, student loans, automobile loans and other consumer products, as well as business and financial instruments involving swaps and other trades.

1 2. The Defendants predictably responded to the Plaintiffs' complaint and order to
2 show cause with "insolent outrage" and spurious claims that their price-fixing was reasonable
3 under the laws of the United Kingdom, and that they had the acquiescence of important people
4 and organizations, as well as foreign regulatory authorities.

5 3. Specifically because of this very case, that response has changed. The
6 Defendant IBA, as a result of this very case, has published the following implied recognition
7 that the use of LIBOR in the United States, affecting the trade and commerce of the United
8 States, may be prohibited as a violation of the antitrust laws of the United States:

9
10 "The use of LIBOR in jurisdictions outside the United Kingdom [the United
11 States] and by entities subject to the oversight of other regulatory authorities [the
12 United States Congress and the United States Supreme Court] may be restricted or
13 prohibited by law in those jurisdictions and by the requirements of such regulatory
14 authorities."¹

15
16 4. Plaintiffs now file this First Amended Complaint pursuant to Order of the
17 Court.

18 5. This is a private antitrust case brought under Sections 4 and 16 of the Clayton
19 antitrust act. It claims damages and injunctive relief caused by reason of violations of
20 Sections 1 and 2 of the Sherman Act. Plaintiffs seek damages and injunctive relief, including
21 the disgorgement of Defendants' illegally obtained profits, the dismemberment of Defendants
22 in accordance with the protocols required by reason of their serial violations of the antitrust
23 laws, and dissolution of the LIBOR combination.

24 6. Plaintiffs complain and allege as follows:
25
26

27 ¹ Ice Benchmark Administration LIBOR, *Using LIBOR*, <https://www.theice.com/iba/libor>,
28 published as of at least 10/2/2022.

INTRODUCTION

7. Since the mid-1980s and continued up to and including the filing of this Complaint, Defendants have been and are members of a price-fixing cartel designed to eliminate price competition between and among themselves and among their co-conspirators to fix the intra bank interest rate used as the minimum rate offered for loans to consumers and businesses, including, inter alia, for mortgages, student loans, credit cards, auto loans, lines of credit, contracts, and all varieties of financial instruments. This rate is known as the London Inter-Bank Interest Rate or LIBOR.

8. This price-fixed LIBOR rate is commonly accepted as “the world’s most important number,” used by an estimated US \$350 trillion (\$350,000,000,000,000) of outstanding contracts in maturities ranging from overnight to more than 30 years.

9. LIBOR is a registered trademark of the ICE Benchmark Administration Ltd. (hereinafter “IBA”.) In its online publications, IBA has admitted that:

“LIBOR is a widely-used benchmark for short-term interest rates.

The current LIBOR methodology, which used input data provided by LIBOR panel banks (Panel Banks) is designed to produce an average rate that is representative of the rates at which large, leading, internationally active banks with access to the wholesale, unsecured funding market could fund themselves in such markets in particular currencies for certain tenors.

“LIBOR is currently calculated for five currencies (USD, GBP, EUR, CHF and JPY) and for seven tenors in respect of each currency (Overnight/Spot Next, One Week, One Month, two Months, Three Months, Six Months and 12 Months). This results in the publication of 35 individual rates (one for each currency and tenor combination) every applicable London business day.

Used globally, LIBOR is often referenced in derivative, bond and loan documentation, and in a range of consumer lending instruments such as mortgages, and student loans. It is also used as a gauge of market expectation regarding central bank interest rates, liquidity premiums in the money markets, and during periods of stress, as an indicator of the health of the banking system.”

10. Now, as noted above, IBA has recognized that the use of LIBOR in the United States may be a violation of the antitrust laws of the United States:

“The use of LIBOR in jurisdictions outside the United Kingdom [the United States] and by entities subject to the oversight of other regulatory authorities [the United States Congress and the United States Supreme Court] may be restricted or prohibited by law in those jurisdictions and by the requirements of such regulatory authorities.”²

11. The formula to fix the rate agreed to by the Defendant banks and co-conspirators, and their Defendant agents charged with calculating the agreed price-fixed interest rate, is simple in its arithmetic and devastating in its implementation: As of the date of the filing of the original complaint (1) the sixteen panel banks of which fifteen were original Defendants in this case submit their proposals for what the interest rate should be to the Defendant ICE US LIBOR; (2) the Defendant ICE US LIBOR excludes the four highest and four lowest submitted rates; and then (3) averages the remaining eight. The result of this agreed “trim average” is the LIBOR interest rate that Defendants have agreed in writing to be published and used as a floor interest rate for financial instruments offered in the United States

² Ice Benchmark Administration LIBOR, *Using LIBOR*, <https://www.theice.com/iba/libor>, published as of at least 10/2/2022.

1 and throughout the world by these Defendants and by other banks and financial institutions
2 within the United States that have made LIBOR a part of their financial instruments.

3 12. The Defendant banks agreed to this “trim average” formula, the resultant rate,
4 and the implementation of it in their consumer and business loans and other financial products
5 such as credit cards, mortgages and student loans. United States consumers, including certain
6 of these Plaintiffs, have paid the fixed-price LIBOR rate as a minimum base rate on their loans
7 and credit cards and/or have been substantially threatened with the possibility of injury or
8 damage by reason of the continued use by Defendants and other financial institutions of the
9 LIBOR fixed rate.
10

11 13. The price-fixed rate used by the Defendant banks and their co-conspirators as
12 the base LIBOR rate in their consumer and business and credit card loans is a *per se* violation
13 of Sections 1 and 2 of the Sherman Antitrust Act. The consumer Plaintiffs are injured and
14 damaged and/or substantially threatened with injury and damage, and are authorized to bring
15 this suit pursuant to Sections 4 and 16 of the Clayton Antitrust Act.
16

17 14. The price-fixing agreement between and among the Defendant banks and co-
18 conspirators, and the continued use and enforcement of the price-fixing agreement, should and
19 must be permanently enjoined. No consumer or business loan, including, inter alia, loans for
20 mortgages, student loans, credit cards, auto loans, lines of credit, contracts, and all varieties of
21 financial instruments, if based in whole or in part, or in any way infected or affected by the
22 price-fixed LIBOR base interest rate, should be required to pay, directly or indirectly, the
23 price-fixed USD LIBOR interest rate.
24

25 15. The Plaintiffs pray for, and respectfully demand the entry of a permanent
26 injunction voiding the Defendant banks' price-fixing agreement, enforcement of it, directly or
27 indirectly, the disgorgement of the unlawful profits to the Treasury of the United States, the
28

dismemberment of Defendants in accordance with the protocols already in place, as was required by the United States as a condition of the 2008 bail-out of the banks, the damages caused by reason of Defendants' unlawful combination or conspiracy, and the award of reasonable attorneys fees and the cost of suit.

JURISDICTION

16. This action is brought under Sections 4 and 16 of the Clayton Antitrust Act, 15 U.S.C. §§ 15, 26, for damages and to prohibit Defendants' ongoing violations of §§ 1 and 2 of the Sherman Antitrust Act, 15 U.S.C. §§ 1, 2, caused by reason of Defendants unlawful agreement to fix the USD LIBOR rate, and their unlawful conspiracy to monopolize by agreeing to set the base USD LIBOR interest rate. This Court has subject matter jurisdiction of the federal antitrust claims asserted in this action under Sections 4 and 16 of the Clayton Antitrust Act, 15 U.S.C. §§ 15, 26, and Title 28 United States Code Sections 1331 and 1337.

17. Defendants' conspiracy and conduct was within the flow of, was intended to, and did, in fact, have a substantial effect on the interstate commerce of the United States. During the relevant time period, Defendants intentionally targeted and used the instrumentalities of interstate commerce, including interstate wires, in furtherance of their illegal scheme. In addition, because Defendants transact business in this judicial district, venue is proper in this district court pursuant to 15 U.S.C. §§15, 22 and 26, and 28 U.S.C. § 1391.

THE PLAINTIFFS

18. Each Plaintiff named herein below is an individual and a citizen of the state listed as the address for each such Plaintiff, and in the four years prior to the filing of this action, each Plaintiff was either a borrower/consumer of a loan or credit card with a LIBOR interest rate or has been threatened with injury as a result of the LIBOR rate:

Mary Katherine Arcell, New Orleans, LA

1 Keith Dean Bradt, Reno, NV

2 Jose Brito, Reno, NV

3 Jan-Marie Brown, Reno, NV

4 Rosemary D'Augusta, San Francisco, CA

5 Brenda Davis, Dallas, TX

6 Pamela Faust, Cincinnati, OH

7 Carolyn Fjord, Sacramento, CA

8 Donald C. Freeland, Cincinnati, OH

9 Donald Frye, Colorado Springs, CO

10 Gabriel Garavanian, Nashua, NH

11 Harry Garavanian, Boston, MA

12 Yvonne Jocelyn Gardner, Colorado Springs, CO

13 Valarie Jolly, Dallas, TX

14 Michael Malaney, Grand Rapids, MI

15 Lenard Marazzo, Reno, NV

16 Lisa McCarthy, Naples, FL

17 Timothy Nieboer, Kalamazoo, MI

18 Deborah Pulfer, Sidney, OH

19 Bill Rubinsohn, Philadelphia, PA

20 Sondra Russell, Waco, TX

21 June Stansbury, Reno, NV

22 Clyde Duane Stensrud, Seattle, WA

23 Judith Ann Bray, Colorado Springs, CO

24 Gary Talewsky, Boston, MA

25 Diana Lynn Ultican, Seattle, WA

26 Christine M Whalen, New Orleans, LA

1 19. Because some Plaintiffs are purchasers of LIBOR based interest rate loans and
2 credit, they have been harmed and damaged in that USD LIBOR is an unlawful rate regularly
3 utilized as a component of consumer and business loans, including mortgages, reverse
4 mortgages, student loans, credit cards, auto loans, lines of credit, contracts, and all varieties of
5 financial instruments, offered and sold directly to plaintiffs by the Defendants, and by their co-
6 conspirators, and by other banks and financial institutions that have adopted the LIBOR base
7 rate in their financial instruments.
8

9 20. More specifically, Plaintiff Lisa McCarthy is an authorized user with her
10 husband on a credit card issued by the unnamed co-conspirator Capital One Financial
11 Corporation which is an American bank holding company specializing in credit cards, auto
12 loans, banking, and savings accounts, headquartered in McLean, Virginia with operations
13 primarily in the United States. It is one of the largest banks in the United States. The bank
14 has 755 branches. It is ranked 99th on the Fortune 500, and conducts business in the United
15 States, Canada, and the United Kingdom. The company helped pioneer the mass marketing of
16 credit cards in the 1990s. In 2016, it was the 5th largest credit card issuer by purchase volume,
17 after American Express, JPMorgan Chase, Bank of America, and Citigroup. The rates
18 charged on the Capital One credit card are based upon a 1-month LIBOR rate. The current
19 APR is 6.33% for January, 2022, which is the one-month LIBOR plus margin. Capital One
20 Credit Card lists the 1-month LIBOR rates in its statements as possible components in
21 disclosing variable interest rates to be charged to its customers. As a result, Plaintiff Yvonne
22 Jocelyn Gardner has paid LIBOR based interest on this note and therefore has incurred
23 overcharges as a result of the LIBOR price-fixing conspiracy. She is threatened with injury as
24 a result of the LIBOR price-fixing conspiracy to the extent the card may be used in the future.
25
26
27
28

21. Plaintiff Lisa McCarthy is also a purchaser of a LIBOR-based adjustable rate mortgage through Fifth Third Mortgage Company located in Cincinnati, Ohio. The Adjustable Rate Note is dated July 17, 2006 and tracks the LIBOR One-Year Index as published in the Wall Street Journal, with rate caps. The “Index” is the average of the interbank offered rates for one-year U.S. dollar-denominated deposits in the London market (“LIBOR”), as published in The Wall Street Journal. The initial interest rate was 6.875% on a loan of \$38,000. Monthly payments started at \$265.55. Plaintiff McCarthy has paid LIBOR based interest on her adjustable rate mortgage and therefore has incurred overcharges as a result of the LIBOR price-fixing conspiracy. On May 12, 2021, Plaintiff McCarthy was advised by Fifth Third Preferred Mortgage Company that her LIBOR based adjustable rate mortgage would be replaced by the Secured Overnight Financing Rate (“SOFR”):

“Due to a change in market circumstances, LIBOR will cease to exist immediately after June 30, 2023. In preparation for this change, the Federal Reserve created the Alternative Reference Rates Committee (ARRC) to select an alternative interest rate to replace LIBOR. One of the ARRC’s key goals is to ensure a transition to a new rate in a manner this is fair to both borrowers and lenders.

“ARRC selected the Secured Overnight Financing Rate (SOFR) to replace LIBOR in residential adjustable rate mortgages (ARMS). Because LIBOR and SOFR are similar, but not identical, the SOFR interest rate has historically been lower than the LIBOR rate. *ARRC therefore added what is referred to as a “spread adjustment” to SOFR so that the actual interest rate that borrowers pay under SOFR will be similar to the LIBOR rate.* Please note, however, that SOFR, like LIBOR, will be subject to fluctuations.

1 “Fifth Third [bank] is preparing to follow the industry standards and move loans
2 that utilize LIBOR to the new SOFR rate *with the spread adjustment*
3 *recommended by ARRC*. We are currently unable to tell you the precise rate that
4 will apply to your loan after the move to SOFR, just as we have not been able to
5 predict a future LIBOR rate. As noted, however, *we intend to follow ARRC’s*
6 *recommendation*, which is designed to be fair to banks and their borrowers as this
7 transition occurs.” (Emphasis Added.)
8

9
10 22. The ARRC is run by representatives of the banking industry. Although
11 ostensibly terminating the fixed LIBOR rate, the ARRC’s “spread adjustment” merely
12 continues the fixed LIBOR rate beyond its official “termination date” for USD LIBOR in the
13 United States, and the conspiracy continues.

14
15 23. Plaintiff Yvonne Jocelyn Gardner, who is an elderly 93 year-old, is a purchaser
16 of a LIBOR rate based note from Defendant Bank of America. The note was issued by
17 Defendant Bank of America on August, 2015, in the original amount of \$106,752.36.
18 Monthly interest payments were made to Defendant in Dallas, Texas, from the date of the
19 making of the note. As a result, Plaintiff Yvonne Jocelyn Gardner has paid LIBOR based
20 interest on this note and therefore has incurred overcharges as a result of the LIBOR price-
21 fixing conspiracy.
22

23 24. Plaintiff Harry Garavanian is a borrower on a LIBOR based Education
24 Refinance Loan from Citizens Bank in the original amount of \$107,465.99. Payments have
25 been made by Plaintiff on principal and interest from the date of the making of the note. As a
26 result, Plaintiff Harry Garavanian has paid LIBOR based interest on his note and therefore has
27 incurred overcharges as a result of the LIBOR price-fixing conspiracy.
28

1 25. Plaintiff Jose Brito is a borrower on a LIBOR-based adjustable rate mortgage
2 based upon the one-year LIBOR rate. The loan in the amount of \$289,000 was made through
3 Prospect Mortgage, LLC, which located in Sherman Oaks, CA. Plaintiff Brito has paid
4 LIBOR-based interest on his adjustable rate mortgage since its inception on November 11,
5 2010, starting with monthly payments in the amount of \$1,317.99, at an initial interest rate of
6 3.625%, and therefore has incurred overcharges as a result of the LIBOR price-fixing
7 conspiracy.
8

9 26. All of the Plaintiffs have been threatened with damage, in that each may be
10 required to pay anticompetitive LIBOR rates in the future for fixed and variable interest rate
11 loans, including mortgages, reverse mortgages, student loans, credit cards, auto loans, lines of
12 credit, contracts, and many other varieties of financial instruments, in which the LIBOR base
13 component has been unlawfully fixed by Defendants' unlawful combination and/or
14 conspiracy.
15

16 27. None of the named Plaintiffs was ever aware that the LIBOR rate that they had
17 purchased was arrived at by agreement among the Defendant banking conspirators. The
18 method of calculating LIBOR was never disclosed to these Plaintiffs during the purchase of
19 their loans or the application for their credit. The fact that the LIBOR rate was arrived at by
20 agreement among a panel of banks who were supposed to compete on rates was never overtly
21 disclosed to Plaintiffs, nor indeed was it disclosed to the public in general, nor even was it
22 know to the majority of banking executives charged with responsibility at their respective
23 banks to sell loans and credit. The arcane process of arriving at an agreed LIBOR rate was
24 consummated in virtual secret and known only to a limited cadre of cognoscenti in the rarefied
25 echelons of the banking industry. Not even when the New York LIBOR case in *Gelboim* was
26 first filed was there any realistic public awareness of the price-fixing nature of the LIBOR
27
28

1 process, since the *Gelboim* case dealt with a separate, independent price fixing conspiracy
2 within the LIBOR process.

3 28. As a result, it is not possible to conclude that any Plaintiff, or for that matter,
4 any normal, non-banking-professional American citizen, could ever have imagined that the
5 Defendants in this case have been fixing the price they charged for LIBOR interest rates since
6 1986. The existence and effect of the LIBOR price fixing agreement was known only to the
7 banking industry insiders who used the LIBOR rate in their businesses and who participated in
8 its conception and agreement. It was not known generally by the public, and certainly not by
9 the Plaintiffs.
10

11 29. Although the government has yet to institute any proceedings against this anti-
12 competitive activity, the government failure to enforce the antitrust laws is simply bell-
13 weather for viability of an action. It is yet another glaring example of the reason why
14 Congress sought to insure that the public would have the right to sue for antitrust violations.
15 Government inaction is the poster illustration of why private enforcement has been recognized
16 by the Supreme Court as part of the Congressional plan to enforce the antitrust laws. Neither
17 government action nor inaction is a pre-condition to the filing of private antitrust litigation.
18

19 30. The specific intent of the Defendant as co-conspirators in their agreement to set
20 and published LIBOR rates was to promulgate agreed-upon non-competitive rates that would
21 be exploited by their banks, by other banks, and by financial institutions throughout out the
22 world, but particularly in the United States with respect to USD LIBOR. The Defendants all
23 had the specific intent to set the LIBOR rates according to the formula and the LIBOR code
24 which they knew was designed to insure a profit over an otherwise competitive market rate.
25

26 31. The nature and directness of the plaintiff's claimed injury is that they paid the
27 overcharge. Defendants targeted the sale of LIBOR based financial products to the United
28

1 States. Adherence to the LIBOR rate is a “key priority” to Defendants according to the
2 minutes of the LIBOR Trade Association Working Party Meeting held on May 2, 2019.
3 Moreover, “each Contributor Bank’s Submitters and their direct managers must acknowledge
4 in writing that they have read the code of conduct [which requires the submission of rates for
5 calculation of the LIBOR formula] and that they will comply with it.” The Defendants have
6 admitted in declarations submitted in this case that subsidiaries, branches or companies related
7 to Defendants submitted rate information to ICE for the specific purpose of setting LIBOR
8 rates. The injury that has been suffered by Plaintiffs – or that threatens the Plaintiffs in the future
9 – is precisely the type of injury that the antitrust laws were designed to prevent. Plaintiffs above
10 are direct purchasers of financial instruments that contain a price-fixed rate that has agreed to by
11 these Defendants and that was intended to be sold to these Plaintiffs. Section 4 of the Clayton Act
12 provides an remedy regardless of the amount of the damages involved and Section 16 of the Act
13 permits injunctive relief as a remedy for those threatened with damage. Injunctive relief may take
14 the form of disgorgement of profits to the government and divestiture.
15

16
17 32. There is no risk of duplicative recovery. There is no risk of duplicative
18 recovery since only these Plaintiffs have paid the overcharge in the LIBOR rate.

19 33. The complexity of apportionment does not exist because each Plaintiff is entitled
20 to the difference between the actual rate they paid in interest and the lowest submission. There is
21 no need to apportion the potential overcharge damages since 100% of the damages flow through to
22 the Plaintiffs. These Plaintiffs are the end-payors of the interest rate overcharge.

23 34. The damages are not speculative because they can be easily calculated by the
24 difference between the actual rate paid and the lowest submission rate. Plaintiffs’ damages are not
25 speculative in the least since there is a sound basis upon which to calculate the difference between
26 a competitive interest rate against the actual LIBOR rates. This amount can easily be calculated
27
28

1 for each and every LIBOR setting, for each and every day that LIBOR was published by
2 Defendants.

3 35. Plaintiffs are appropriate plaintiffs because plaintiffs paid the illegal price.
4 Plaintiffs paid the actual LIBOR interest but should have paid the lowest submission.
5 Although there are many potential plaintiffs who have suffered from the LIBOR overcharge,
6 these named Plaintiffs are equally capable of prosecuting this claim against Defendants as are
7 any others. As has been set out above, these Plaintiffs have entered into loans and other
8 financial obligations that were tied to the LIBOR rate; Plaintiffs have made payments that were
9 tied to the LIBOR rate; Plaintiffs have alleged and will allege infra that the LIBOR rate that was
10 paid was higher than what a competitive rate would have been in the absence of the LIBOR
11 formula and methodology.
12

13 **THE DEFENDANTS**

14 36. Defendant Intercontinental Exchange Inc. (“ICE”) is a Delaware corporation
15 with its principal place of business at 5660 New Northside Drive, Atlanta, Georgia 30328,
16 registered to do business in California. Intercontinental Exchange, Inc. is dual-headquartered
17 in Atlanta and New York.
18

19 37. Defendant ICE Benchmark Administration Limited (f/k/a NYSE Euronext Rate
20 Administration Limited, hereinafter “IBA”) is a UK company with a registered address of
21 Milton Gate, 60 Chiswell Street, London, EC1Y 4SA, United Kingdom. NYSE Euronext Rate
22 Administration Limited was renamed ICE Benchmark Administration Limited after
23 Intercontinental Exchange, Inc.’s acquisition of NYSE Euronext in 2013. After the acquisition,
24 four of NYSE Euronext’s directors joined ICE’s 14-member board.
25

26 38. Defendant Intercontinental Exchange Holdings, Inc. is a Delaware corporation
27
28

1 with its principal place of business at 5660 New Northside Drive, Atlanta, Georgia 30328,
2 registered to do business in California.

3 39. Defendant ICE Data Services, Inc. (“ICE Data Services”) is a Delaware
4 corporation registered to do business in California, with a principal place of business located
5 at 100 Church Street, 11th Floor, New York, New York 10007. ICE Data Services owns and
6 operates the ICE Report Center, which houses USD ICE LIBOR data and with which
7 registration is required to access certain USD ICE LIBOR rate and submission data from ICE.
8

9 40. Defendant ICE Pricing and Reference Data LLC (“ICE Pricing and Reference
10 Data”) is a Delaware company registered to do business in California with a principal place of
11 business located at 5660 New Northside Drive, Atlanta, Georgia 30328.

12 41. The ICE entities (hereinafter, the ICE entities shall be collectively referred to as
13 “ICE”, when not referenced individually) and its other unnamed subsidiaries and affiliates
14 share a unity of corporate interest and operate as a single enterprise in furtherance of the
15 combination and conspiracy alleged herein.
16

17 42. Each Bank Defendant named below is one of the Panel Banks contributing rate
18 data to ICE for calculation of the USD LIBOR benchmark rate.

19 43. Defendant Bank of America, N.A. is a national banking association, and
20 Defendant Bank of America Corporation, a Delaware corporation (collectively, “Bank of
21 America”). Both entities headquarters are located at 100 North Tryon Street, Charlotte, North
22 Carolina 28202 and are registered to do business in California. Bank of America and its other
23 unnamed subsidiaries and affiliates share a unity of corporate interest and operate as a single
24 enterprise in furtherance of the combination and conspiracy alleged herein.
25

26 44. Defendant Barclays Bank, plc, is a U.K. public limited company with its
27 principal place of business at 1 Churchill Place, London E14 5H, United Kingdom, and
28

operates a New York branch at 745 Seventh Avenue, New York, New York 10019, and Defendant Barclays Capital Inc. is a Connecticut corporation with its principal place of business at 745 Seventh Avenue, New York, New York 10019 (collectively, “Barclays”). Barclays and its other unnamed subsidiaries and affiliates share a unity of corporate interest and operate as a single enterprise in furtherance of the combination and conspiracy alleged herein. Barclays’ employees and those persons employed by Barclay’s American subsidiaries have provided information to Barclays Bank, plc for the purpose of setting the daily USD LIBOR rates.

45. Defendant Citibank, N.A. is a federally chartered national banking Association, and Defendant Citigroup Inc. is a Delaware corporation. Both entities are headquartered at 399 Park Avenue, New York, New York 10022. Defendant Citigroup Global Markets Inc. is a Delaware corporation headquartered at 390-388 Greenwich Street, New York, New York 10013 and registered to do business in California (hereinafter, the Citibank/Citigroup entities shall be referred to collectively as “Citibank” if not referred to individually). Citibank and its other unnamed subsidiaries and affiliates share a unity of corporate interest and operate as a single enterprise in furtherance of the combination and conspiracy alleged herein.

46. Defendant Coöperatieve Rabobank U.A. (“Rabobank”) is a bank organized under the laws of Netherlands with its principal place of business at Croeselaan 18, 3521 CB Utrecht, Netherlands, and operates a New York branch at 245 Park Avenue, 37th Floor, New York, New York 10167. Rabobank and its other unnamed subsidiaries and affiliates share a unity of corporate interest and operate as a single enterprise in furtherance of the combination and conspiracy alleged herein. Rabobank’s employees and those persons employed by Rabobank’s American branch offices have provided information to Rabobank for the purpose of setting the daily USD LIBOR rates.

47. Defendant Credit Suisse Group AG is a Swiss aktiengesellschaft (“AG” or “CSGAG”) with its principal place of business at 8 Paradeplatz, 8001 Zurich, Switzerland. Defendant Credit Suisse AG is a Swiss AG with its principal place of business at Ueltibergstrasse 231, 8070 Zurich, Switzerland. Credit Suisse AG is registered to do business in California and it operates a New York branch located at Eleven Madison Avenue, 24th Floor, New York, New York 10010. Defendant Credit Suisse Securities (USA) LLC is a Delaware limited liability company. It is registered to do business in California, with its principal place of business at Eleven Madison Avenue, 24th Floor, New York, New York 10010 (hereinafter, the Credit Suisse entities will be referred to collectively as “Credit Suisse”). Credit Suisse and its other unnamed subsidiaries and affiliates share a unity of corporate interest and operate as a single enterprise in furtherance of the combination and conspiracy alleged herein. Credit Suisse Group AG operates subsidiaries that are located in and do business in the United States. As of November 19, 2020, CSGAG’s subsidiaries had 7,447 employees in the United States of which 147 were in California. In the United States, CSGAG itself has a New York branch and two representative offices in California. In the United States, CSGAG itself employed 112 people in the New York Branch. CSGAG’s direct employees and those employed by CSGAG’s American subsidiaries provided information to CSGAG for the purpose of setting the daily LIBOR USD rates.

48. Defendant Deutsche Bank AG is a German aktiengesellschaft with its principal place of business at Taunusanlage 12, Frankfurt, 60325, Germany. Defendant Deutsche Bank AG is registered to do business in California, and it operates a San Francisco branch at 101 California Street, San Francisco, CA 94111. Defendant Deutsche Bank Securities Inc. (“DBSI”) is a Delaware corporation registered to do business in California, with its principal place of business at 60 Wall Street, 4th Floor, New York, New York 10005 (hereinafter, the

1 Deutsche Bank entities shall be referred to collectively as “Deutsche Bank” when not
2 referenced individually). Deutsche Bank and its other unnamed subsidiaries and affiliates
3 share a unity of corporate interest and operate as a single enterprise in furtherance of the
4 combination and conspiracy alleged herein. Deutsche Bank AG’s employees and those
5 persons employed by Deutsche Bank AG’s American branch offices and subsidiaries have
6 provided information to Deutsche Bank AG for the purpose of setting the daily USD LIBOR
7 rates.
8

9 49. Defendant HSBC Holdings plc is a British public limited company with its
10 principal place of business at 8 Canada Square, London, E14 5HQ, United Kingdom.
11 Defendant HSBC Bank plc is a British public limited company with its principal place of
12 business at 8 Canada Square, London, E14 5HQ, United Kingdom. Defendant HSBC Bank
13 USA, N.A. is a national banking association headquartered at HSBC Tower, 452 Fifth
14 Avenue, New York, New York 10018 and registered to do business in California. Defendant
15 HSBC Securities (USA) Inc. is a Delaware corporation registered to do business in California,
16 with its principal place of business at HSBC Tower, 452 Fifth Avenue, New York, New York
17 10018 (hereinafter, the HSBC entities shall be referred to collectively as “HSBC” if not
18 referenced individually). HSBC and its other unnamed subsidiaries and affiliates share a unity
19 of corporate interest and operate as a single enterprise in furtherance of the combination and
20 conspiracy alleged herein. HSBC Bank plc’s employees and those persons employed by
21 HSBC Bank plc’s American branch offices and subsidiaries have provided information to
22 HSBC Bank plc for the purpose of setting the daily USD LIBOR rates.
23
24

25 50. Defendant JPMorgan Chase & Co. is a Delaware corporation with its principal
26 place of business at 270 Park Avenue, New York, New York 10017. Defendant JPMorgan
27 Chase Bank, N.A. is a federally-chartered national banking association registered to do
28

1 business in California, headquartered at 270 Park Avenue, New York, New York 10017.

2 Defendant J.P. Morgan Securities LLC is a Delaware limited liability company registered to
3 do business in California, with its principal place of business at 277 Park Avenue, New York,
4 New York 11072 (hereinafter, the JPMorgan Chase entities shall be referred to collectively as
5 “JP Morgan” if not referenced individually). JP Morgan and its other unnamed subsidiaries
6 and affiliates share a unity of corporate interest and operate as a single enterprise in
7 furtherance of the combination and conspiracy alleged herein.
8

9 51. Defendant Lloyds Bank plc is a British public limited company with registered
10 offices at 25 Gresham Street, London EC2V 7HN, United Kingdom, and it operates a New
11 York branch at 1095 Sixth Avenue, New York, New York 10036. Defendant Lloyds
12 Securities Inc. is a Delaware corporation headquartered at 1095 Sixth Avenue, New York,
13 New York 10036 (hereinafter, the Lloyds entities shall be referred to collectively as “Lloyds”
14 if not referenced individually). Lloyds and its other unnamed subsidiaries and affiliates share
15 a unity of corporate interest and operate as a single enterprise in furtherance of the
16 combination and conspiracy alleged herein. Lloyds Bank plc’s employees and those persons
17 employed by Lloyds Bank plc’s American branch offices and subsidiaries have provided
18 information to Lloyds Bank plc for the purpose of setting the daily USD LIBOR rates.
19

20 52. Defendant MUFG Bank, Ltd. is a bank organized under the law of Japan with
21 its principal place of business at 7-1, Marunouchi 2-chome Chiyoda-ku, Tokyo 100-8388,
22 Japan. MUFG Bank, LTD is registered to do business in California and operates a New York
23 branch at 1251 Sixth Avenue, New York, New York 10020 and a San Francisco Branch at 350
24 California Street, 1st Floor, San Francisco, CA 94104. Defendant The Bank of Tokyo-
25 Mitsubishi UFJ Ltd. is a bank organized under the laws of Japan with its principal place of
26 business at 7-1, Marunouchi 2-chome Chiyoda-ku, Tokyo 100-8388, Japan and which
27
28

operates a New York branch at 1251 Sixth Avenue, New York, New York 10020. Defendant Mitsubishi UFJ Financial Group Inc. is a Japanese corporation with its principal place of business at 7-1, Marunouchi 2-chome Chiyoda-ku, Tokyo 100-8388, Japan. Defendant MUFG Securities Americas Inc. is a Delaware corporation registered to do business in California, with its principal place of business at 1221 Avenue of the Americas, 6th Floor, New York, New York 10020 (hereinafter, all four MUFG entities shall be referred to collectively as “MUFG” if not referenced individually). MUFG and its other unnamed subsidiaries and affiliates share a unity of corporate interest and operate as a single enterprise in furtherance of the combination and conspiracy alleged herein. MUFG Bank Ltd’s employees and those persons employed by MUFG Bank Ltd’s American branch offices and subsidiaries have provided information to MUFG Bank Ltd for the purpose of setting the daily USD LIBOR rates.

53. Defendant Royal Bank of Scotland Group plc is a United Kingdom public limited company with its principal place of business at 1000 Gogarburn, Edinburgh, EH12 1HQ, Scotland. Defendant Royal Bank of Scotland plc is a United Kingdom public limited company with its principal place of business located at 36 St. Andrew Square, Edinburgh, EH2 2YB, Scotland, and it operates a Connecticut branch located at 600 Washington Boulevard, Stamford, Connecticut 06901. Defendant National Westminster Bank plc is a U.K. public limited company with its principal place of business at 135 Bishopsgate, London, EC2M 3UR, United Kingdom. Natwest is a member of the USD LIBOR Panel. Defendant Natwest Markets Securities Inc. (f/k/a RBS Securities Inc.) is a Delaware corporation registered to do business in California, with its principal place of business at 600 Washington Boulevard, Stamford, Connecticut 06901 (hereinafter the Royal Bank of Scotland and National Westminster entities shall be referred to collectively as “Royal Bank of Scotland” or

1 “RBS” when not referenced individually). RBS and its other unnamed subsidiaries and
2 affiliates share a unity of corporate interest and operate as a single enterprise in furtherance of
3 the combination and conspiracy alleged herein. National Westminster Bank plc’s employees
4 and those persons employed by National Westminster Bank plc’s American branch offices and
5 subsidiaries have provided information to National Westminster Bank plc for the purpose of
6 setting the daily USD LIBOR rates.
7

8 54. Defendant Sumitomo Mitsui Banking Corporation is a bank organized under
9 the laws of Japan with its principal place of business at 1-1-2, Marunouchi, Chiyoda-ku,
10 Tokyo, Japan. Defendant Sumitomo Mitsui Banking Corporation is registered to do business
11 in California, and it operates a San Francisco branch at 555 California Street, Suite 3350, San
12 Francisco, CA 94104, and a New York branch at 277 Park Avenue, New York, New York
13 10172. Defendant Sumitomo Mitsui Financial Group Inc. is a Japanese corporation organized
14 under the laws of Japan with its principal place of business at 1-1-2, Marunouchi, Chiyoda-ku,
15 Tokyo, Japan. Defendant Sumitomo Mitsui Banking Corporation Europe Ltd. is a U.K. public
16 limited company with its principal place of business at Temple Court, 11 Queen Victoria
17 Street, London, EC4N 4TA, United Kingdom. SMBC Capital Markets, Inc. is a Delaware
18 corporation registered to do business in California, with its principal place of business at 277
19 Park Avenue, New York, New York 10172 (hereinafter the Sumitomo entities shall be
20 referred to collectively as “Sumitomo” if not referenced individually). Sumitomo and its other
21 unnamed subsidiaries and affiliates share a unity of corporate interest and operate as a single
22 enterprise in furtherance of the combination and conspiracy alleged herein. Sumitomo Mitsui
23 Banking Corporation Europe Ltd.’s employees and those persons employed by Sumitomo
24 Mitsui Banking Corporation Europe Ltd.’s American branch offices and subsidiaries have
25
26
27
28

1 provided information to Sumitomo Mitsui Banking Corporation Europe Ltd. for the purpose of
 2 setting the daily USD LIBOR rates.

3 55. Defendant UBS Group AG is a Swiss AG with principal places of business at
 4 45 Bahnhofstrasse, Zurich CH-8098, Switzerland and 1 Aeschenvorstadt, Basel CH-4051,
 5 Switzerland. Defendant UBS AG is a Swiss AG with principal places of business at 45
 6 Bahnhofstrasse, Zurich CH-8098, Switzerland and 1 Aeschenvorstadt, Basel CH-4051,
 7 Switzerland and it operates a Connecticut Branch at 677 Washington Boulevard, Stamford,
 8 Connecticut 06901. Defendant UBS Securities LLC is a Delaware limited liability company
 9 registered to do business in California, with its principal place of business at 1285 Avenue of
 10 the Americas, New York, New York 10019 (hereinafter, the UBS entities shall be referred to
 11 collectively as “UBS” if not referenced individually). UBS and its other unnamed subsidiaries
 12 and affiliates share a unity of corporate interest and operate as a single enterprise in
 13 furtherance of the combination and conspiracy alleged herein. UBS Group AG reported a
 14 group total worldwide operating income of approximately \$32.4 billion for 2020, of which its
 15 United States operating income comprised approximately \$11.7 billion. UBS Group AG’s
 16 direct employees and those employed by UBS Group AG’s American subsidiaries provided
 17 information to UBS Group AG for the purpose of setting the daily LIBOR USD rates.

18
 19
 20 Personal Jurisdiction over the Foreign Co-Conspirator Defendants

21
 22 56. The foreign Defendants named above are: ICE Benchmark Administration
 23 Limited (“IBA”), Barclays Bank PLC, Coöperatieve Rabobank U.A., Credit Suisse Group
 24 AG, Credit Suisse AG, Deutsche Bank AG, HSBC Holdings plc, HSBC Bank plc, Lloyds
 25 Bank plc, MUFG Bank, Ltd., The Bank of Tokyo- Mitsubishi UFG Ltd., Mitsubishi UFJ
 26 Financial Group, Inc., Royal Bank of Scotland Group plc, Royal Bank of Scotland plc,
 27 National Westminster Bank plc, Sumitomo Mitsui Banking Corporation, Sumitomo Mitsui
 28

1 Financial Group Inc., Sumitomo Mitsui Banking Corporation Europe Ltd., UBS Group AG,
2 and UBS AG.

3
4 57. As a part of the anticompetitive conspiracy to fix the LIBOR base rate, each of
5 these Defendants agreed to submit its proposed interest rates to ICE for the purpose of
6 calculating the agreed-upon USD LIBOR trim average that would be offered to their
7 customers, and to customers of their United States subsidiaries, and that would be published
8 specifically for use by other United States financial institutions and banks and credit card
9 companies to sell loans and credit within the United States. Some 40 percent of all financial
10 transactions worldwide are done in dollars.³ As a result, it is only stating the obvious to allege
11 that the foreign Defendants knew that their published LIBOR rate would be used by their own
12 banks and other banks and financial institution within the United States and also that these
13 Defendants indeed targeted the United States' market for the implementation of their LIBOR
14 base rate.
15

16
17 58. In addition, because the trim-average by definition eliminates what otherwise
18 would have been lower rates from at least 4 of the panel banks, but for the agreement,
19 Defendants could have offered consumers and purchasers of loans and credit in the United
20 States a choice of USD short-term interest-rates, and consumers in the United States could
21 have opted for alternative lower interest rates than those which were ultimately offered as the
22 USD LIBOR base rate. But for the conspiracy, consumers and purchasers of loans in the
23 United States could have chosen not to enter into LIBOR-based transactions at all. And,
24 absent the Defendants' agreement not to offer alternate benchmark rates in their lending
25 packages, United States consumers could have moved toward an alternative benchmark rate
26

27
28 ³ *New York Times*, A Strong Dollar Will Inflict Pain in Many Nations, September 27, 2022.

1 such as the New York Funding Rate. In other words, but for the Defendants' United States
 2 related contacts and but for Defendants' specific targeting of the United States market,
 3 Defendants' conspiracy could not have succeeded.

4
 5 59. To bolster the false perception that USD LIBOR served its intended purpose of
 6 facilitation (which was critical to maintaining USD LIBOR's dominance), Defendants
 7 dispatched representatives to the United States to "placate" U.S. investors. Defendants were
 8 particularly concerned about "the US market" and agreed that they needed to "manage the
 9 [New York] Fed's perception on LIBOR" and needed to reach consensus on a "way to
 10 defend" USD LIBOR. During the entire period that LIBOR rates have been offered, there
 11 have been numerous contacts between The British Bankers Association ("BBA") and the NY
 12 Fed regarding LIBOR. (Declaration of Lisa Kaas (Dec. 8, 2014), Doc. No. 892 ("Kaas Decl.")
 13 ¶¶ 25, 35-37; IN RE LIBOR-BASED FINANCIAL INSTRUMENTS ANTITRUST
 14 LITIGATION MDL No. 2262, Master File No. 1:11-md-02262-NRB.)

15
 16
 17 60. Ultimately, Defendants' conspiratorial conduct and extraterritorial actions were
 18 specifically directed at and produced harmful effects in the U.S. in an attempt to prevent the
 19 United States banks from using any other guideline or benchmark other than LIBOR. In fact,
 20 the panel banks who are defendants in this case have agreed not to use alternative benchmarks
 21 other than LIBOR.

22
 23 61. Defendants do not deny that it was their intentional communication of
 24 individual USD LIBOR trim rates to United States consumers and businesses, both by them
 25 and through their subsidiary banks and corporations, that ultimately facilitated the sale of
 26 financial products to U.S. consumers based on LIBOR, which was their overriding purpose
 27

1 and intent. The foreign defendants clearly intended that their agreed LIBOR rate would affect
2 the rates charged for loans and credit in the United States.

3
4 62. This Court has determined that the relevant forum for the assessment of
5 minimum contacts is the United States as a whole. Defendants can avail themselves of a
6 particular forum such as the United States by reason of actions taken by con-conspirators
7 within the forum, essentially operating on behalf of each member of the conspiracy.
8 *Copperweld Crop v. Independent Tube Corp*, 467 U.S. 752, 769 (1984). Many of the foreign
9 defendant names above have subsidiaries acting for them within the United States. Such a
10 subsidiary is considered to be unitary with the foreign parent for purposes of the antitrust laws.

11
12 63. In this case, bank executives and managers of the Defendant foreign banks'
13 subsidiaries in the United States manipulated and made decisions concerning LIBOR policy
14 and sales in the United States at the direction of the foreign Defendants. If permitted
15 discovery, Plaintiffs will prove that American subsidiaries would regularly submit information
16 to their foreign defendant parents for the purpose of calculating the daily interest submissions
17 that that foreign defendant panel bank would make to ICE LIBOR for the purpose of
18 calculating the daily USD LIBOR base rates.

19
20
21 The Defendants Targeted the United States Market

22 64. Barclays has admitted through requests for admissions in this case that 1) it has
23 engaged in transactions in the United States that reference USD; 2) that it agreed to abide
24 Code of Conduct which set administered the formula to set the USD ICE LIBOR rate; 3) that
25 it knew USD ICE LIBOR was a benchmark rate referenced in financial transactions that was
26 used in the United States during the Relevant Period; and 4) that it is not aware of any
27 congressional immunity for the bank with regard to LIBOR.
28

1 65. Bank of America has admitted through requests for admissions in this case that
2 1) it has signed the ICE LIBOR Code of Conduct and agreed to the procedures set forth
3 therein; 2) that it is “aware” that some contracting parties in the United States have entered
4 into contracts that reference USD ICE LIBOR during the Relevant Period; 3) it engaged in
5 financial transactions that reference USD ICE LIBOR in the United States during the Relevant
6 Period; 4) during the Relevant Period it engaged in variable rate loans in the United States that
7 reference USD ICE LIBOR; 5) that it is not aware of any congressional immunity for the bank
8 with regard to LIBOR.
9

10 66. Citibank has admitted through requests for admissions in this case that 1) it has
11 agreed to abide by the ICE LIBOR Code of Conduct and agreed to the procedures set forth
12 therein; 2) that it knew USD ICE LIBOR was a benchmark rate referenced in financial
13 transactions that was used in the United States during the Relevant Period; 3) it engaged in
14 financial transactions that reference USD ICE LIBOR in the United States during the Relevant
15 Period; 4) during the Relevant Period it engaged in variable rate loans in the United States that
16 reference USD ICE LIBOR; 5) that it is not aware of any congressional immunity for the bank
17 with regard to LIBOR; 6) it issued credit cards in the United States, the terms of which
18 reference the USD ICE LIBOR benchmark interest rate, during the Relevant Period, but
19 CBNA otherwise denies this Request.
20

21 67. Credit Suisse has admitted through requests for admissions in this case that 1) it
22 has agreed to abide by the ICE LIBOR Code of Conduct and agreed to the procedures set forth
23 therein; 2) it engaged in financial transactions that reference USD ICE LIBOR in the United
24 States during the Relevant Period; 3) it knew that there were loans and financial instruments in
25 the United States based on contracts that reference USD ICE LIBOR; and 4) that it is not
26 aware of any congressional immunity for the bank with regard to LIBOR.
27
28

1 68. Deutsche Bank has admitted through requests for admissions in this case that 1)
2 it engaged in financial transactions that incorporate or reference USD ICE LIBOR in the
3 United States during the Relevant Period; 2) it agreed to comply with the USD LIBOR® Code
4 of Conduct issued by IBA that sets out the framework within which USD LIBOR Contributor
5 Banks are expected to operate; 3) it is aware that some financial institutions in the United
6 States use published USD ICE LIBOR rates as benchmarks for determining interest rates on
7 loans and various financial instruments, including swaps; 4) it engaged in transactions in the
8 United States that reference USD ICE LIBOR during the Relevant Period; 5) that it is not
9 aware of any congressional immunity for the bank with regard to LIBOR; and 6) it has
10 engaged in financial transactions in the United States that included a variable interest rate
11 linked to USD ICE LIBOR.
12

13 69. HSBC has admitted through requests for admissions in this case that 1) during
14 the Relevant Period, it was a panel bank for USD ICE LIBOR; 2) it entered into contracts in
15 which an interest rate would be calculated, in part, by reference to the USD ICE LIBOR
16 benchmark; 3) during the Relevant Period, it anticipated that the USD ICE LIBOR
17 benchmarks could be referenced by banks in the United States in loans or other financial
18 instruments; 4) HSBC Bank engaged in financial transactions in the United States based on
19 contracts that reference USD ICE LIBOR; 5) during the Relevant Period, it had not received
20 immunity from the United States Congress to “fix” USD ICE LIBOR; and 6) it included USD
21 ICE LIBOR in the calculation of the interest rate charged on at least one variable rate loan in
22 the United States.
23
24

25 70. Lloyds Bank has admitted through requests for admissions in this case that 1)
26 Lloyds Bank admits that it engaged in transactions in the United States that referenced USD
27 ICE LIBOR during the Relevant Period; 2) Lloyds Bank agreed to abide by the ICE LIBOR
28

1 Code of Conduct during the Relevant Period, but Lloyds Bank otherwise denies this Request;
 2 3) Lloyds Bank admits that it engaged in transactions in the United States that reference USD
 3 ICE LIBOR during the Relevant Period; and 4) Lloyds Bank is not aware of any statute
 4 enacted by the United States Congress that expressly grants or excludes antitrust immunity for
 5 a panel bank's participation in the submission process for determining USD ICE LIBOR.

6
 7 71. JPMorgan has admitted through requests for admissions in this case that 1)
 8 JPMorgan Chase Bank, N.A., London Branch is a member of the USD ICE LIBOR panel; 2)
 9 certain contractual interest rates for certain financial transactions involving JPMorgan and
 10 certain counterparties in the United States between 2014 and 2020 referenced the USD ICE
 11 LIBOR benchmark rate; 3) JPMorgan has agreed to abide by the USD ICE LIBOR Code of
 12 Conduct to make submissions to IBA, on each London business day, that IBA states it uses,
 13 together with submissions by other USD ICE LIBOR panel banks, to calculate USD ICE
 14 LIBOR in accordance with IBA's published USD ICE LIBOR Methodology; 4) USD ICE
 15 LIBOR was referenced as a benchmark in certain JPMorgan variable rate loan transactions
 16 with certain non-Plaintiff consumers located in the United States of America between 2014
 17 and 2020; 5) certain contractual interest rates for certain financial transactions involving
 18 JPMorgan and certain counterparties in the United States between 2014 and 2020 referenced
 19 the USD ICE LIBOR benchmark rate; 6) it is unaware of any legislation or regulation enacted
 20 by the United States Congress expressly granting it, or any other USD ICE LIBOR panel
 21 bank, "immunity ... to fix USD ICE LIBOR"; and 7) it referenced USD ICE LIBOR as a
 22 benchmark in certain variable rate loan transactions with certain non-Plaintiff consumers
 23 located in the United States of America between 2014 and 2020.

24
 25
 26 72. MUFG has admitted through requests for admissions in this case that 1) it is a
 27 member of the panel of banks that submit data to ICE Benchmark Administration ("IBA") for
 28

1 use in the determination of USD ICE LIBOR; 2) it enters into certain types of financial
 2 instruments with U.S.-based corporate counterparties (not individuals) that reference USD
 3 ICE LIBOR (such as interest rate swaps); 3) has agreed to abide by the ICE LIBOR Code of
 4 Conduct as published by IBA, which incorporates a methodology for the determination of
 5 USD ICE LIBOR; 4) admits that it is generally aware that banks in the United States use USD
 6 ICE LIBOR as a reference rate for some financial instruments; 5) it enters into certain types of
 7 financial instruments with U.S.-based corporate counterparties (not individuals) that reference
 8 USD ICE LIBOR (such as interest rate swaps); 6) it has not “received immunity from the
 9 United States Congress to fix USD ICE LIBOR”; and 7) has agreed to abide by the ICE
 10 LIBOR Code of Conduct as published IBA, which incorporates a methodology for the
 11 determination of USD ICE LIBOR.
 12

13 73. Royal Bank of Scotland (National Westminster Bank plc) has admitted through
 14 requests for admissions in this case that 1) it entered into transactions referencing USD ICE
 15 LIBOR during the Relevant Period; 2) it agreed to abide by a Code of Conduct published by the
 16 IBA; 3) it knew that USD ICE LIBOR rates would be referenced in loans and other financial
 17 instruments, including swaps, by banks in the United States; 4) is not aware of any legislation
 18 or regulation enacted by the United States Congress expressly granting National Westminster
 19 Bank plc “immunity ... to fix USD ICE LIBOR;” and 5) it has referenced ICE LIBOR rates in
 20 variable rate loans in the United States.
 21

22 74. Rabobank has admitted through requests for admissions in this case that 1) it
 23 was one of the USD ICE LIBOR panel banks that made USD ICE LIBOR submissions to
 24 IBA; 2) it engaged in transactions in the United States involving financial instruments that
 25 referenced USD ICE LIBOR; 3) it agreed to abide by the ICE LIBOR Code of Conduct in
 26 connection with making USD ICE LIBOR submissions during Relevant Period; 4) it was
 27
 28

1 aware that banking institutions in the United States transacted in financial instruments,
2 including loans and interest-rate swaps, that referenced USD ICE LIBOR; 5) it engaged in
3 transactions in the United States involving financial instruments that reference USD ICE
4 LIBOR; 5) it is not aware of any statute enacted by the United States Congress that expressly
5 grants or excludes antitrust “immunity... to fix USD ICE LIBOR,”; and 6) USD ICE LIBOR
6 was a component of the interest rate it charged in connection with certain variable-rate loans it
7 issued in the United States during the Relevant Period.
8

9 75. Sumitomo has admitted through requests for admissions in this case that 1) it
10 was a member of the IBA’s USD ICE LIBOR panel during the Relevant Period; 2) SMBC BI
11 agreed to abide by the ICE LIBOR Code of Conduct during the Relevant Period; 3) it
12 anticipated that the USD ICE LIBOR benchmarks could be referenced by banks in the United
13 States in loans or other financial instruments; and 4) it is not aware of any statute enacted by
14 the United States Congress that expressly grants or precludes antitrust immunity “to fix USD
15 LIBOR” or for a panel bank’s participation in the submission process for determining USD
16 ICE LIBOR.
17

18 76. UBS has admitted through requests for admissions in this case that 1) UBS AG
19 served on the USD ICE LIBOR panel as administered by IBA during the Relevant Period; 2)
20 UBS entered into transactions in which an interest rate would be calculated, in part, by
21 reference to USD ICE LIBOR in the United States during the Relevant Period; 3) UBS
22 complied with the ICE LIBOR Code of Conduct during the Relevant Period; 4) UBS
23 understood that the USD ICE LIBOR rates may be referenced in loans and other financial
24 instruments offered by banks in the United States during the Relevant Period; 5) UBS entered
25 into transactions in which an interest rate would be calculated, in part, by reference to USD
26
27
28

1 ICE LIBOR in the United States during the Relevant Period; and 6) UBS has not expressly
2 “received immunity from the United States Congress to fix USD ICE LIBOR”.

3
4 77. Some of the Defendants have already been found by a New York Court to have
5 fixed the submissions they submitted to LIBOR. Those cases are different from this in that
6 this case challenges LIBOR itself. In the other LIBOR litigation pending in the Southern
7 District of New York, recently on appeal to the Second Circuit⁴, evidence and allegations have
8 been submitted to the District Court that show that Bank executives and managers in the
9 United States mandated that their subordinates manipulate LIBOR. Plaintiffs in that case
10 specifically allege that a "senior UBS manager in Stamford, Connecticut issued [a] standing
11 directive to 'submit low LIBOR contributions' for USD LIBOR, and to keep submissions in
12 the 'middle of the pack of other banks' expected LIBOR submissions." These allegations are
13 based upon UBS's admissions to the Department of Justice. Similarly, Plaintiffs in that case
14 have relied on emails between a senior JPMorgan Chase executive in New York and the
15 Banks' LIBOR submitter discussing the importance of staying in "the pack" and asking the
16 submitter to "err on the low side" when setting LIBOR. In the New York case Plaintiffs also
17 quote an email in which a U.S.-based employee of Citibank urged the Bank's LIBOR
18 submitter that "we should take a leadership [role] in bringing these LIBORS back to more
19 sensible levels," "[e]xactly as we did 3-4_months back" and that the Bank's LIBOR
20 submissions then decreased. Plaintiffs also asserted that a Barclays' executive "who was based
21 in New York . . . has admitted that he instructed subordinates to submit artificially low USD
22 LIBOR rates."
23
24
25
26

27 ⁴ *Schwab Short-Term Bond Mkt. Fund v. Lloyds Banking Grp.*, 22 F.4th 103 (2d Cir. 2021).
28

1 78. Additional allegations were made in the New York proceedings that U.S. based
2 requests were made to foreign defendants from upper management at U.S. JPMorgan Chase.

3 79. All of these factual allegations were made notwithstanding the fact that the
4 foreign Defendants had made averments in their executives' declarations submitted to that
5 District Court, as was done in this District Court, stating that "they did not determine or
6 transmit their LIBOR submission from the United States."

7
8 80. In the present case, as in the New York case, the conspiratorial contacts were of
9 the sort for which the foreign defendants should reasonably have anticipated being hailed into
10 court as a result.

11
12 81. Moreover, clearly, the overt acts perpetrated by the foreign defendants were
13 foreseeable to the foreign defendants since the conspiracy that Plaintiff has alleged involves
14 the manipulation and agreement upon USD LIBOR rates with conspirators who are based in
15 the United States.

16
17 82. Plaintiff further alleges that the personal jurisdiction of the foreign defendants
18 is warranted based upon the fact that the foreign Defendants have sold trillions of dollars of
19 LIBOR-based instruments in the United States and have purportedly exploited the United
20 States markets for USD LIBOR based financial products and have targeted the United States
21 with their LIBOR price fixing conspiracy.

22 83. These Defendants purposefully directed their activities towards residents of the
23 United States, purposefully and intentionally directed their conduct into the United States and
24 purposefully availed themselves of the privilege of conducting activities in the United States.
25 Foreign Defendants knew or should have known that their anticompetitive conduct would
26 harm Plaintiffs and others in the United States who purchased LIBOR related loans and credit.
27
28

1 Defendants should have known that even though their acts may have been taken outside of the
2 United States, those acts would certainly have an effect within the United States. And would
3 harm these Plaintiffs here.

4 84. Defendants intentionally published their LIBOR rates in the United States and
5 by doing so have intentionally placed these rates in the stream of commerce knowing that they
6 would reach and affect the financial instruments sold in the United States.
7

8 85. In turn, Plaintiffs' claims arise out of and relate to the anticompetitive activities
9 perpetrated by the Defendants in fixing the price of the USD LIBOR rates.

10 86. All of the foreign Defendants United States subsidiaries aided in the
11 publication, promulgation, implementation and sale of the USD LIBOR rates in the United
12 States on behalf of their parent companies. The foreign Defendants and their U.S.
13 Subsidiaries and related companies acted as one and therefore the acts of the American
14 subsidiaries within the United States are deemed the acts of the foreign parent under
15 *Copperweld*, supra.
16

17 **CO-CONSPIRATORS**

18 87. Various persons, partnerships, firms, banks, credit card companies and
19 corporations not named as Defendants in this lawsuit, and individuals, the identities of which
20 are presently unknown, have participated as co-conspirators with Defendants in the offense
21 alleged in this Complaint, and have performed acts and made statements in furtherance of the
22 illegal combination and conspiracy. The unreasonable restraint of trade in this case is the hub-
23 and-spoke price fixing agreement between and among ICE, the Defendant Contributor Panel
24 Banks, and virtually every other bank in the United States using LIBOR as a component of
25 interest charged in its fixed and variable interest rate loans and credit. By perpetuating this
26 arrangement, the banks collectively have ceded power and authority to ICE and to the
27
28

1 Defendant banks to set, implement, and enforce a horizontal price-fixing restraint in which
 2 they are knowing participants.

3 **FACTUAL BACKGROUND**

4 **THE ORIGINAL BRITISH BANKERS' ASSOCIATION LIBOR**

5 88. LIBOR is a creature of the British Bankers' Association. The British Bankers'
 6 Association ("BBA") is the leading trade association for the financial-services sector in the
 7 United Kingdom.⁵

8 89. When BBA administered LIBOR, it was a private association that was operated
 9 without regulatory or government oversight and was governed by senior executives from its
 10 member banks.

11 90. The BBA began setting LIBOR on January 1, 1986, using separate panels for
 12 different currencies. The U.S. Dollar ("USD") LIBOR panel was composed of as many as 16-
 13 18 member banks of the BBA.

14 91. Under the BBA LIBOR regime, the daily USD LIBOR was set by surveying
 15 the 16 panel bank members. Each panel bank member was asked, "At what rate could you
 16 borrow funds, were you to do so by asking for and then accepting inter-bank offers in a
 17 reasonable market size just prior to 11 a.m.?" Each bank was to respond on the basis of (in
 18 part) its own research, and its own credit and liquidity risk profile. Thomson Reuters later
 19 compiled these submissions and published them on behalf of the BBA. The final LIBOR was
 20 the mean of the eight submissions left after excluding the four highest submissions and the
 21 four lowest.⁶ The daily submission of each bank was to remain confidential until after LIBOR
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27 ⁵ *Gelboim*, 823 F.3d at 765.

28 ⁶ *Gelboim*, 823 F.3d at 765-766.

1 was finally computed and published; and all 16 individual submissions were to be published
2 along with the final daily rate and would thus be “transparent on an *ex post* basis.”⁷

3 92. Between 2007 and 2012, investigations revealed that the panel member banks
4 had intentionally manipulated and conspired to fix LIBOR rates. A number of panel member
5 banks paid substantial fines for their participation in the conspiracy, including UBS, Barclays,
6 RBS, Rabobank, Deutsche Bank, and JPMorgan Chase, among others.
7

8 93. Over the last decade, LIBOR has navigated multiple scandals and crises and in
9 December of 2021 LIBOR announced that it would no longer be used to issue new loans in the
10 United States as of June, 2023. It is being phased out due in large part due to the manipulation
11 in rate setting by many of the banks and due to its contribution to the financial crises of 2008.

12 94. Because rates for Credit Default Swaps were set using LIBOR, these derivative
13 investments were used to insure against defaults on subprime mortgages. When these credit
14 default swaps began to fail, the crises was exacerbated by LIBOR since every day LIBOR rate
15 setting banks estimated higher and higher interest rates, causing LIBOR to rise and making
16 loans more expensive. With rates on trillions of dollars of financial products soaring day after
17 day, LIBOR transmitted the crisis to all parts of the global economy and markets crashed.
18

19 95. In 2012 an investigation uncovered a widespread scheme by certain of the
20 panel banks – Barclays, Deutsche Bank, Rabobank, UBS and the Royal Bank of Scotland - to
21 manipulate the LIBOR rates for profit.
22

23 96. On September 25, 2012, it was announced publicly that the BBA was preparing
24 to hand over administration of LIBOR to UK regulators.⁸
25
26

27 ⁷ *Gelboim*, 823 F.3d at 766.

28 ⁸ <https://www.wsj.com/articles/SB10000872396390444180004578018371243449916>

97. Due to these scandals and illegal conduct and because the LIBOR rate is not reliable, SOFR has been designated to replace LIBOR in USD transactions. The replacement is due to be completed in June of 2023 when LIBOR is scheduled to stop USD publication. The SOFR index comprises the weighted average of the rates charged on trades of Treasury bond repurchase agreements.

**DEFENDANTS' UNLAWFUL COMBINATION AND CONSPIRACY TO FIX PRICES
ON USD LIBOR-BASED INTEREST RATE LOANS AND CREDIT CARDS AND
CONSPIRACY TO MONOPOLIZE**

98. On February 1, 2014, the Intercontinental Exchange Benchmark Administration Limited ("IBA") took over managing LIBOR, changing it to the ICE LIBOR.

99. LIBOR is now calculated and published by IBA on London business days for 5 currencies with 7 maturities quoted for each - ranging from overnight to 12 months, producing 35 rates, at 11:55 am London time on each applicable London business day.⁹

100. Each LIBOR calculation is currently based on input data contributed by a panel of between 11 and 16 Contributor Banks for each of the five LIBOR currencies. Each Contributor Bank contributes input data for all seven LIBOR tenors in every currency in respect of which it is on a panel.¹⁰

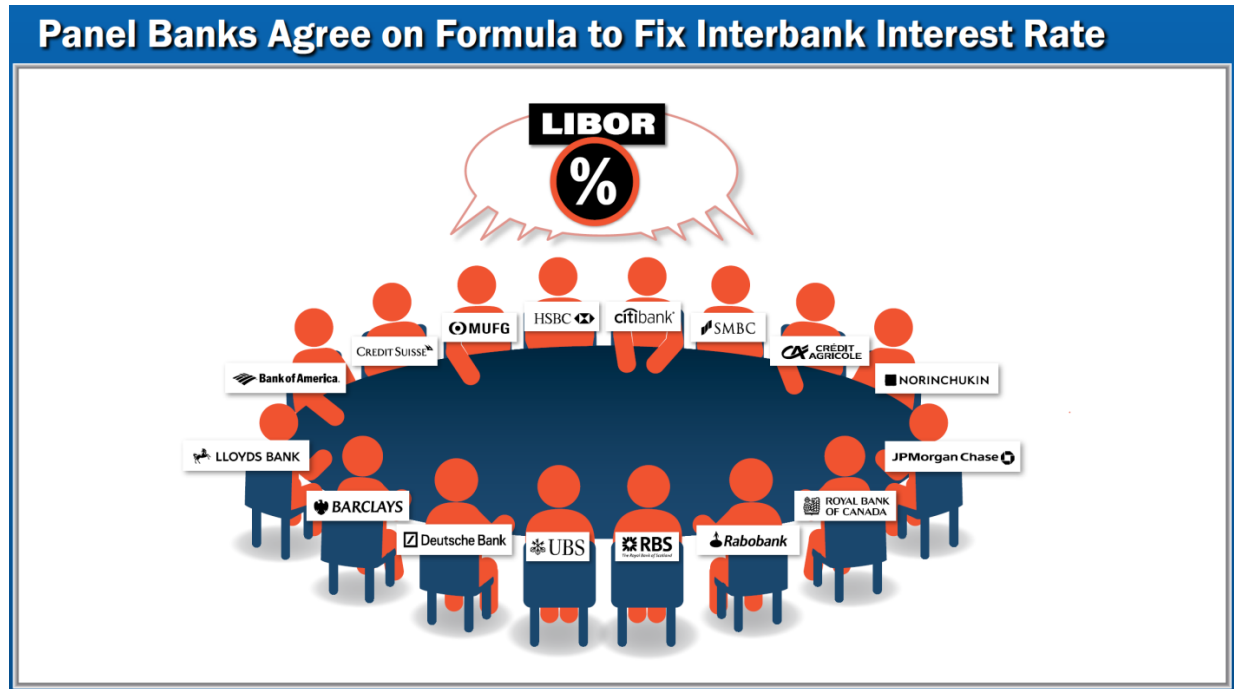
101. According to the IBA, its LIBOR Oversight Committee considers the following criterion for eligibility on the Contributor Bank Panels: (1) transactional activity overall; (2) expertise in wholesale markets; (3) bank size; (4) credit quality; (5) reputational standing; (6) types and mix of transactional activity and bank sources of funding; and (7) geographical reach of banks.¹¹

⁹ https://www.theice.com/publicdocs/ICE_LIBOR_Roadmap0316.pdf, at p. 5.

¹⁰ <https://www.theice.com/iba/libor> and https://www.theice.com/publicdocs/ICE_LIBOR_Roadmap0316.pdf, at p. 5.

¹¹ https://www.theice.com/publicdocs/Policy_Composition_ICE_LIBOR_Panels.pdf

102. The following table shows the panel composition for USD LIBOR as of the filing of the original complaint in August, 2022:



103. Defendants Bank of America, Barclays, Citibank, Rabobank, Credit Suisse, Deutsche Bank, HSBC, JPMorgan Chase, Lloyds Bank, MUFG Bank, NatWest/Royal Bank of Scotland, Royal Bank of Canada (settled defendant), Sumitomo, Norinchukin (settled defendant), and UBS were IBA Contributor Banks for the USD LIBOR panel in August of 2022.

104. Current USD LIBOR panel banks are Bank of America, Barclays, Citibank, Rabobank, Credit Agricole, Credit Suisse, Deutsche Bank, JPMorgan Chase, Lloyds Bank, MUFG Bank, Royal Bank of Canada, Sumitomo (SMBC), Norinchukin and UBS.

105. LIBOR is calculated by the IBA based on submissions from the Contributor Banks through the use of a “Waterfall Methodology” which includes the following levels: (1) “Transaction-Based” Data, with a greater weighting of transactions booked closer to 11:00

1 a.m. London time; (2) “Transaction-Derived” Data, including time-weighted historical eligible
2 transactions adjusted for market movements and linear interpolation; and (3) “Expert
3 Judgment,” market and transaction data based “expert judgment,” using the bank’s own
4 internally approved procedure.¹²

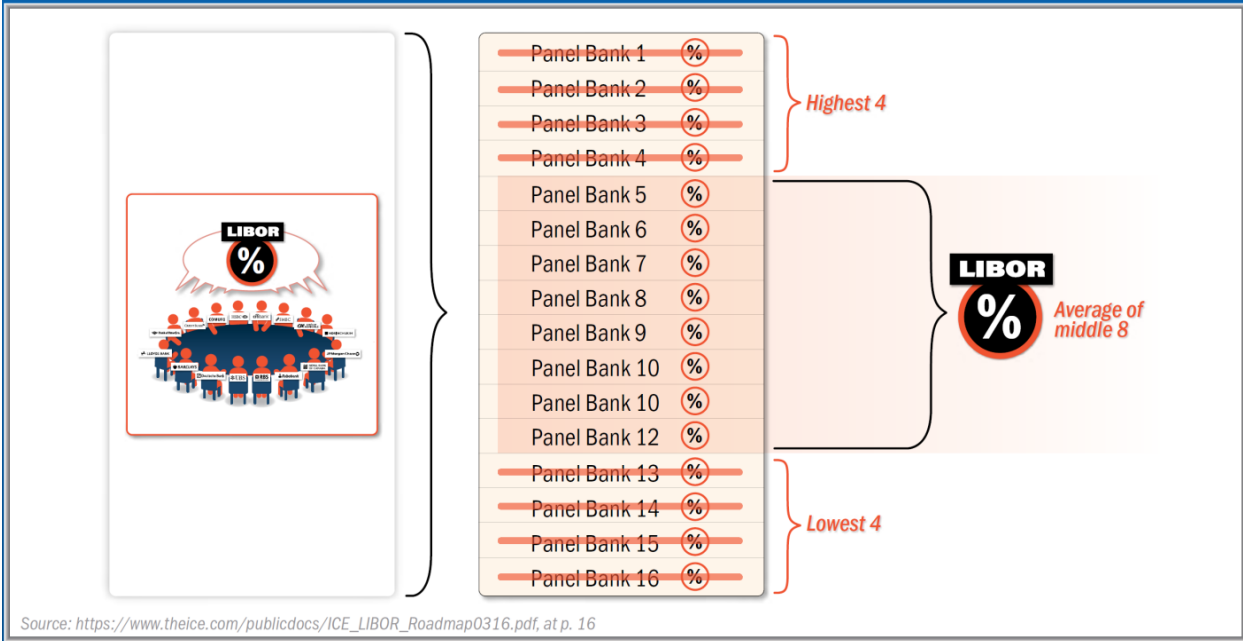
5 106. IBA calculates LIBOR using a trimmed arithmetic mean. Once all submissions
6 are received from the Contributor Banks, they are ranked in descending order and then the
7 highest and lowest quartiles of submissions are excluded to remove outliers from the final
8 calculation. A mean is calculated from the remaining middle quartiles, rounded to five decimal
9 places. Each Contributor Bank's submission carries an equal weight in the calculation, subject
10 to the trimming.¹³

11 107. LIBOR is not truly set on what the contributor panel banks actually pay to
12 borrow funds from each other, rather it is set based upon the panel banks’ submissions related
13 to what they think they would pay.
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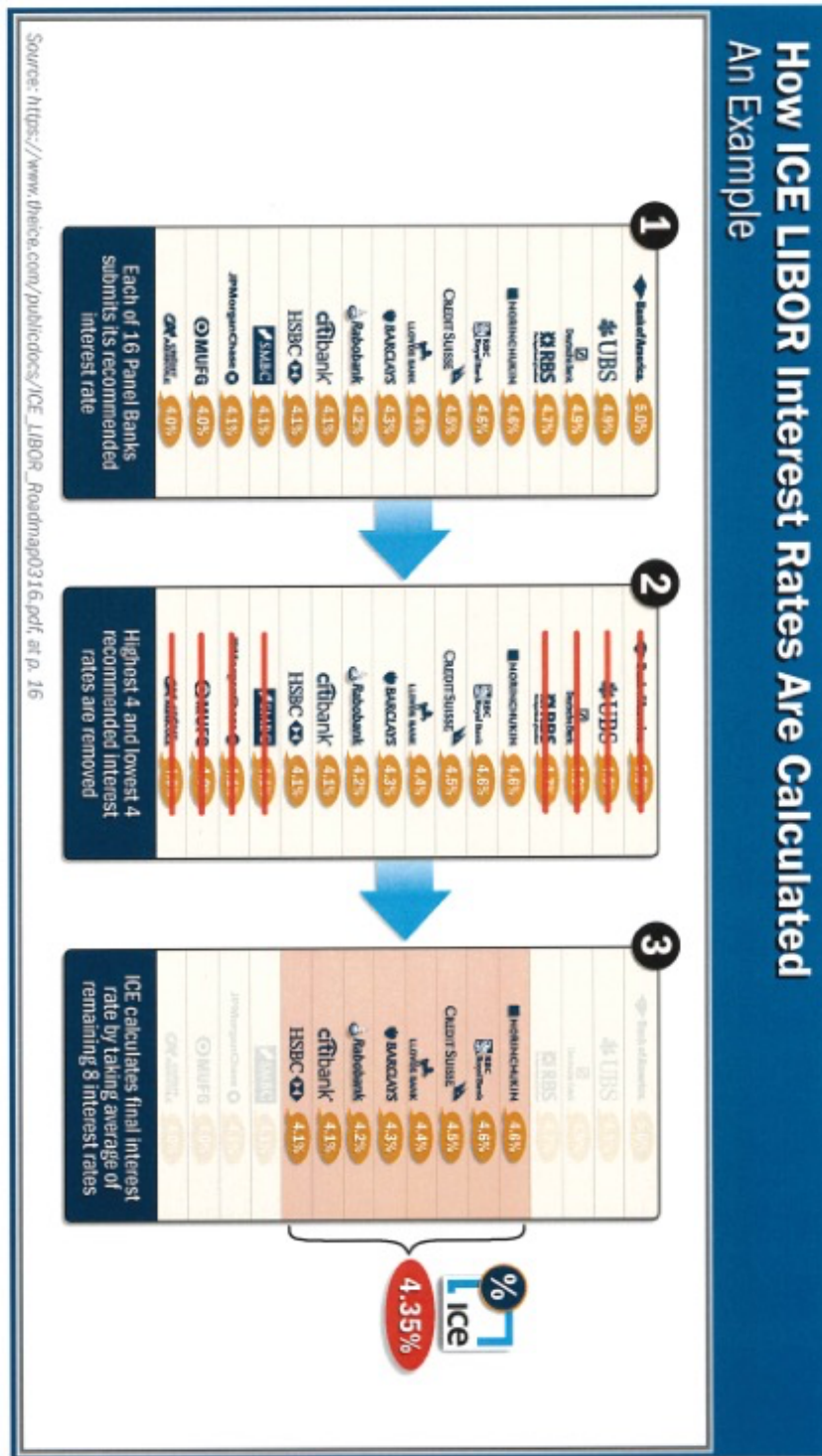
27 ¹² <https://www.theice.com/iba/libor>

28 ¹³ https://www.theice.com/publicdocs/ICE_LIBOR_Roadmap0316.pdf, at p. 16.

Formula to Fix Interbank Interest Rate

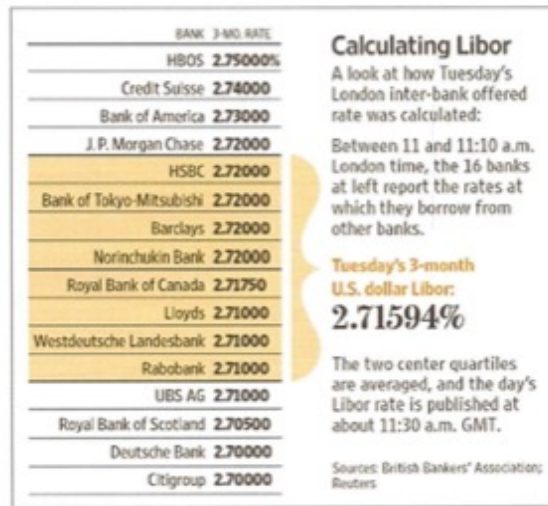


108. As a further example of the rate setting process highlighting that the lower rates submitted by the panel banks (which are identified as of the date of the filing of the original complaint) are rejected as “outliers”, plaintiff submits the following charts prepared by ICE LIBOR:



libor1.gif 372x350 pixels

12/30/20, 11:11 AM


<http://www.cringely.com/wp-content/uploads/2012/07/libor1.gif>

Page 1 of 1

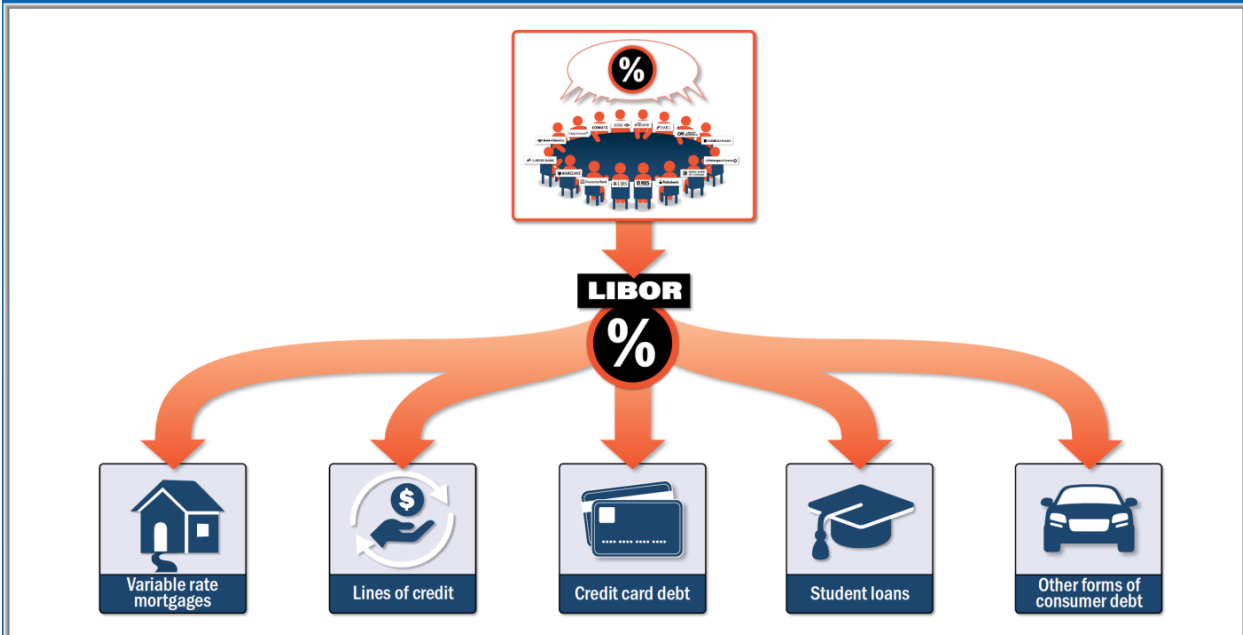
109. The following chart is an example that shows the difference between the fixed rate and the lowest submission for seven tenors over a period of several days. The difference is

substantial in every case. This is the fixed rate less the lowest submission (otherwise called by LIBOR as the “outlier” rate).

RATE DATE	TENOR CODE	LOWEST RATE	SET RATE	DIFFERENCE B/W LOWEST &
03-Feb-2014	12M	0.4	0.5629	0.1629
03-Feb-2014	1M	0.125	0.1571	0.0321
03-Feb-2014	1W	0.09	0.12075	0.03075
03-Feb-2014	2M	0.16	0.19975	0.03975
03-Feb-2014	3M	0.19	0.2356	0.0456
03-Feb-2014	6M	0.22	0.3335	0.1135
03-Feb-2014	ON	0.055	0.0855	0.0305
06-May-2014	12M	0.39	0.5436	0.1536
06-May-2014	1M	0.12	0.1505	0.0305
06-May-2014	1W	0.09	0.1225	0.0325
06-May-2014	2M	0.15	0.18925	0.03925
06-May-2014	3M	0.18	0.22485	0.04485
06-May-2014	6M	0.22	0.3229	0.1029
06-May-2014	ON	0.07	0.0905	0.0205
08-Sep-2014	12M	0.415	0.5626	0.1476
08-Sep-2014	1M	0.12	0.1535	0.0335
08-Sep-2014	1W	0.09	0.11985	0.02985
08-Sep-2014	2M	0.15	0.1953	0.0453
08-Sep-2014	3M	0.18	0.2336	0.0536
08-Sep-2014	6M	0.23	0.3263	0.0963
08-Sep-2014	ON	0.065	0.091	0.026
08-Dec-2014	12M	0.4	0.6031	0.2031
08-Dec-2014	1M	0.13	0.1617	0.0317
08-Dec-2014	1W	0.105	0.1366	0.0316
08-Dec-2014	2M	0.15	0.203	0.053
08-Dec-2014	3M	0.19	0.2376	0.0476
08-Dec-2014	6M	0.25	0.3399	0.0899
08-Dec-2014	ON	0.09	0.111	0.021
03-Feb-2015	12M	0.45	0.61815	0.16815
03-Feb-2015	1M	0.145	0.171	0.026
03-Feb-2015	1W	0.11	0.136	0.026
03-Feb-2015	2M	0.17	0.2085	0.0385
03-Feb-2015	3M	0.21	0.2551	0.0451
03-Feb-2015	6M	0.28	0.3588	0.0788
03-Feb-2015	ON	0.09	0.1175	0.0275
06-May-2015	12M	0.555	0.7341	0.1791
06-May-2015	1M	0.15	0.18025	0.03025
06-May-2015	1W	0.12	0.1453	0.0253
06-May-2015	2M	0.19	0.2279	0.0379
06-May-2015	3M	0.22	0.276	0.056
06-May-2015	6M	0.34	0.4164	0.0764
06-May-2015	ON	0.085	0.123	0.038
08-Sep-2015	12M	0.72	0.8568	0.1368
08-Sep-2015	1M	0.16	0.203	0.043
08-Sep-2015	1W	0.135	0.154	0.019
08-Sep-2015	2M	0.2	0.26855	0.06855

110. LIBOR interest rates are jointly set by the Co-Conspirator Defendants. Defendants-Co-Conspirators and their co-conspirator banks and credit card companies in the United States agree to use and do use USD LIBOR as a component of the interest charged in fixed and variable interest rate loans on credit cards in the United States. Variable and fixed interest rate loans and credit tied to USD LIBOR include fixed and variable rate mortgages, asset backed securities, lines of credit, municipal bonds, credit default swaps, credit card debt, student loans, auto loans and other forms of debt. As of 2019, \$1.2 trillion worth of residential mortgage loans and \$1.3 trillion of consumer loans had been priced using LIBOR.

Variable Interest Rate Consumer Loans Tied to LIBOR



111. LIBOR-based loans work as follows: If one applies for a loan based on LIBOR, the financial firm offering the loan will take the LIBOR rate for the date the loan is quoted and add an additional percentage, say 2%. For a private mortgage loan based upon the LIBOR three-month rate, for example, if the LIBOR rate was 1.15%, the base rate for the loan would be 3.15%. If the loan is an adjustable loan, the lender sets regular periods when it makes changes to the rate being charged. The lender references LIBOR when adjusting the

1 interest rate on the loan, changing the amount paid each month during the period of
2 adjustment.

3 112. The LIBOR rate is a base rate based upon a trimmed average of contributing
4 banks. Contrary to the agreed-upon trimmed rate set by LIBOR and its contributor panel
5 banks, a reasonable estimate of the actual competitive rate that a borrower would pay - absent
6 the LIBOR price trimming conspiracy – would be the lowest four rates that are submitted by
7 the four lowest Contributor Banks on any particular rate setting date, which four rates are
8 excluded from the LIBOR trim average by virtue of Defendants’ unlawful combination or
9 conspiracy.
10

11 113. Each Defendant panel bank sought to maximize its potential profit by agreeing
12 to use LIBOR. Each of the panel banks specifically intended that the published LIBOR
13 interest rate for USD LIBOR would exceed by a significant amount the lowest of the four
14 lowest interest rates for USD LIBOR submitted by the USD LIBOR panel banks. The
15 purpose of the calculation whereby the USD LIBOR rate would be set on a trim average was
16 to insure that the USD LIBOR rate would exceed the lowest suggested rate submitted by a
17 panel bank. The purpose was to insure that the effective, published LIBOR rate would be
18 more than the lowest competitive rate. The purpose was to insure that there would be a
19 significant profit for the participating panel banks and for any bank that adopted the LIBOR
20 published rate, because the LIBOR rate would always be more than the lowest of the other
21 competitive banks. The defendants agreed to maximize their profits by setting a rate above
22 the lowest rates submitted by the other panel banks.
23
24

25 114. Each USD LIBOR Contributor bank agrees to adhere to the LIBOR Code of
26 Conduct established by IBA, thus cementing the conspiracy to set prices on interest rates.
27
28

1 115. The LIBOR Code of Conduct established by the IBA, “sets out the framework
2 within which LIBOR Contributor Banks are expected to operate.”¹⁴

3 116. Under the LIBOR Code of Conduct, each Contributor Bank’s “submitters and
4 their direct managers *must acknowledge in writing that they have read the [LIBOR] code of*
5 *conduct and that they will comply with it.*”¹⁵

6 117. Under the LIBOR Code of Conduct, a “Contributor Bank is required to
7 formulate its LIBOR Submissions in accordance with the methodology requirements
8 published by IBA at: https://www.theice.com/publicdocs/ICE_LIBOR_Methodology.pdf.”¹⁶

9 118. Under the LIBOR Code of Conduct, each Contributor Bank is required to
10 make, “Submissions....between 11.05 and 11.39.59 on each London business day.
11 Submissions received at or after 11.40 will be regarded as late. If a bank makes frequent late
12 Submissions, the matter will be reported to the LIBOR Oversight Committee...”¹⁷

13 119. Under the LIBOR Code of Conduct, each Contributor Bank is required to
14 maintain, “written policies and procedures designed to ensure that this LIBOR Code is
15 implemented and systematically applied within the Contributor Bank...”¹⁸

16 120. Under the LIBOR Code of Conduct, each Contributor Bank must, “ensure that
17 appropriate records are kept of its business and internal organisation, which must be available
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23 ¹⁴ https://www.theice.com/publicdocs/LIBOR_Code_of_Conduct_Issue_7_Current.pdf, at p.
24 3.

25 ¹⁵ https://www.theice.com/publicdocs/LIBOR_Code_of_Conduct_Issue_7_Current.pdf, at p.
26 31.

27 ¹⁶ https://www.theice.com/publicdocs/LIBOR_Code_of_Conduct_Issue_7_Current.pdf, at p.
28 8.

¹⁷ https://www.theice.com/publicdocs/LIBOR_Code_of_Conduct_Issue_7_Current.pdf, at p. 9

¹⁸ https://www.theice.com/publicdocs/LIBOR_Code_of_Conduct_Issue_7_Current.pdf, at p.

 14.

1 to IBA on request, to the extent permitted by applicable law, in order to monitor the bank's
 2 compliance with the requirements under [the] LIBOR Code [of Conduct].”¹⁹

3 121. By agreeing to comply and adhere to the terms set forth in the LIBOR Code of
 4 Conduct, the Contributor Banks agree to fix and set the interest rates of USD LIBOR.

5 122. Further, the LIBOR Code of Conduct is overseen and enforced by the IBA's
 6 “LIBOR Oversight Committee,” which has “broad market representation, being comprised of
 7 Contributor Banks, benchmark users, market infrastructure providers, independent non-
 8 executive directors of IBA, and other relevant experts. Representatives from the Board of
 9 Governors of the Federal Reserve System, the Swiss National Bank and the Bank of England
 10 also sit on the committee as observers.”²⁰

11 123. The LIBOR Oversight Committee, which is composed of some Defendants and
 12 other unnamed co-conspirators, is responsible for, “Reviewing the methodology, scope and
 13 definition of the benchmark (including assessing its underlying market and usage); Overseeing
 14 any changes to the benchmark; and Overseeing and reviewing the LIBOR Code of
 15 Conduct.”²¹

16 124. The members of the LIBOR Oversight Committee as of December 2019 were
 17 as follows:²²

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 24 ¹⁹ https://www.theice.com/publicdocs/LIBOR_Code_of_Conduct_Issue_7_Current.pdf, at p.

25 28.

26 ²⁰ <https://www.theice.com/iba/libor>

27 ²¹ <https://www.theice.com/iba/libor>

28 ²²

https://www.theice.com/publicdocs/LIBOR_Oversight_Committee_Disclosures_of_Conflicts_of_Interest.pdf

First Name	Surname	Company	Committee Position
Paula	Madoff	ICE Benchmark Administration (Independent Non-Executive Director)	Chairwoman
Timothy J	Bowler	ICE Benchmark Administration (President)	Ex Officio
David	Bowman	Federal Reserve System (Associate Director - Division of International Finance)	Observer
Steve	Bullock	Lloyds Bank (Head of Benchmark Submission and Supervision)	Contributor of Input Data representative
David	Clark	EVIA (Chairman)	Association representative
Clare	Dawson	LMA (Chief Executive)	Association representative
Galina	Dimitrova	The Investment Association (Director, Investments and Capital Markets)	Association representative
Angus	Graham	UBS (Group Finance)	Contributor of Input Data representative
John	Grout	Independent	Independent Expert
George	Handjinicolaou	Piraeus Bank (Chairman)	Financial Intermediary representative
Matthias	Jüttner	Swiss National Bank (Assistant Director - Money Market)	Observer
Candice	Koederitz	ICE Benchmark Administration (Independent Non-Executive Director)	Independent Non-Executive Director
Will	Parry	Bank of England (Senior Manager - Sterling Markets Division)	Observer
David	Peniket	ICE Futures US (Director)	Market Infrastructure Provider representative
Rob	Thurlow	Mizuho Corporate Bank (Head of ALM / Benchmark Manager)	Contributor of Input Data representative
Kathleen	Yoh	Independent	Independent Expert

1 125. Each of the above-identified members of the LIBOR Oversight Committee
 2 specifically intended that the published LIBOR interest rate for USD LIBOR exceed the
 3 lowest four interest rates for USD LIBOR submitted by the USD LIBOR panel banks. The
 4 purpose of the calculation whereby the USD LIBOR rate would be set on a trim average was
 5 to insure that the USD LIBOR rate would exceed the lowest suggested rate submitted by a
 6 panel bank. The purpose was to insure that the effective, published LIBOR rate would be
 7 more than the lowest competitive rate. The purpose was to insure a profit for the participating
 8 panel banks and for any bank that adopted the LIBOR published rate.

10 126. In 2018-2019, the IBA conducted two surveys to determine and agree upon
 11 which LIBOR settings would be produced after 2021.²³

12 127. The IBA plans on “[u]sing the results of this survey and other outreach
 13 work...[to] work with globally active banks to seek to publish certain LIBOR settings after
 14 year-end 2021.”²⁴

16 128. The survey explains that, “The primary goal of IBA’s work in seeking to obtain
 17 sufficient banking industry support to publish certain LIBOR settings after year-end 2021 is to
 18 provide these settings to users with outstanding LIBOR-linked contracts that are impossible or
 19 impractical to modify.”²⁵

24 ²³ <https://www.tactweb.org/media/2019/01/2019.05.02-LIBOR-Working-Group.pdf>, at p. 3.

25 ²⁴ https://www.theice.com/publicdocs/Results_of_the_IBA_Survey_on_the_use_of_LIBOR.pdf,
 26 at p. 2.

27 ²⁵ https://www.theice.com/publicdocs/Results_of_the_IBA_Survey_on_the_use_of_LIBOR.pdf,
 28 at p. 2

1 129. The first survey of its existing global Panel Banks sought “to identify the
2 LIBOR settings that are critical to the global financial system.” The results of that survey
3 were never made public.²⁶

4 130. The second survey of LIBOR end-users sought to determine which LIBOR
5 settings were most commonly used.²⁷

6 131. The results of the survey were published in March 2019 and included feedback
7 from 109 Respondents. According to the minutes of a LIBOR Trade Association Working
8 Party Meeting held in May 2019, the overwhelming majority of survey respondents focused
9 on lending activities when asked to set out the main uses of currency and tenor pairs that they
10 used the most.

11 132. According to the minutes of a LIBOR Trade Association Working Party
12 Meeting held in May 2019, the IBA is now focusing on engaging with panel and potential
13 panel banks to seek their commitment to providing continued submissions in respect of those
14 tenor and currency pairs after 2021.²⁸

15 133. In response to the question, “IBA would like to understand which LIBOR
16 currency and tenor pairs you and/or your organisation use the most and for which you would
17 like to see IBA work to seek an agreement with globally active banks to support publication
18 after 2021,” the top three currency/tenor pairs selected by the second survey’s respondents
19 were as follows: (1) USD LIBOR 3 Month; (2) USD LIBOR 1 Month; and (3) the USD
20 LIBOR 6 Month.²⁹

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25 ²⁶ <https://www.tactweb.org/media/2019/01/2019.05.02-LIBOR-Working-Group.pdf>, at p. 3.

26 ²⁷ <https://www.tactweb.org/media/2019/01/2019.05.02-LIBOR-Working-Group.pdf>, at p. 3.

27 ²⁸ <https://www.tactweb.org/media/2019/01/2019.05.02-LIBOR-Working-Group.pdf>, at p. 3-4.

28 ²⁹ https://www.theice.com/publicdocs/Results_of_the_IBA_Survey_on_the_use_of_LIBOR.pdf,
at p. 5.

134. In response to the question, “IBA would like to understand which LIBOR currency and tenor pairs you and/or your organisation use the most and for which you would like to see IBA work to seek an agreement with globally active banks to support publication after 2021,” out of 109 responses, the number of respondents selecting the USD currency/tenor pairs are as follows³⁰:

- Over 90 respondents selected the 3-month USD LIBOR currency/tenor pair.
- Over 75 respondents selected the 1-month USD LIBOR currency/tenor pair.
- Over 65 respondents selected the 6-month USD LIBOR currency/tenor pair.
- Over 35 respondents selected the 12-month USD LIBOR currency/tenor pair.
- Over 35 respondents selected the overnight USD LIBOR currency/tenor pair.
- 30 respondents selected the 1-week USD LIBOR currency/tenor pair.
- Over 25 respondents selected the 2-month USD LIBOR currency/tenor pair.

135. In response to the survey question, “Please set out the main uses of the currency and tenor pairs you use the most,” the following number of co-conspirator banks and other institutions surveyed responded that they mainly use the following USD LIBOR currency/tenor pairs for, “Retail products (e.g. consumer loans, credit cards, mortgages, investment products):

1 Month USD LIBOR	1
3-Month USD LIBOR	2
6-Month USD LIBOR	2
12-Month USD LIBOR	4

³⁰

https://www.theice.com/publicdocs/Results_of_the_IBA_Survey_on_the_use_of_LIBOR.pdf, at p. 10.

1 136. The IBA survey therefore illustrates the agreement, combination and
2 conspiracy, between and among Defendants and its unnamed co-conspirators to use and
3 continue to use the USD LIBOR as a component of the price in fixed and variable interest rate
4 loans.

5
6 **THE DEFENDANTS ARE SERIAL VIOLATORS OF THE ANTITRUST LAWS AND**
7 **MUST BE BROKEN-UP**
8

9 137. These Defendants have abused their size by violating the antitrust laws on
10 numerous occasions. Their violations have caused tremendous damage to the victims. In this
11 case they have agreed to a formula to fix the price of the intra-bank interest rate used
12 throughout the world. They have pled guilty or admitted to regulatory agencies that they have
13 fixed the exchange rate in the foreign exchange markets. They have been proved to have fixed
14 the price on the interchange fees in the credit card and debit card market. Although not sued,
15 they caused the 2007-2008 mortgage crisis which resulted in devastating foreclosures
16 throughout the country.
17

18 138 These Defendants have been pampered and have been given special
19 consideration by government officials, as was stated by Timothy F. Geithner, former Secretary
20 of the Treasury, in his book, *Stress Test*, subtitled “Reflections on the Financial Crisis”, at
21 page 392:
22

23 “Related to the theory that size caused the crisis was the theory that moral
24 hazard caused the crisis, that ‘too big to fail’ banks took on so much risk because they
25 knew the government would bail them out if they got in trouble. There was certainly
26 moral hazard in our system. Traditional banks did enjoy a mix of explicit and implicit
27
28

1 government protection, advantages that were not sufficiently offset by constraints on
2 their risk-taking.”

3
4 139. Secretary Geithner also specifically stated that each of the Defendants has
5 developed a plan for their dismemberment should any of them violate the law again:

6 “Larger firms were also required to submit ‘living wills’ to their supervisors,
7 emergency protocols proposing how they could be safely dismembered. . . More than
8 one hundred financial firms now have blueprints for their breakup in case they run
9 into trouble.” (Page 429.)

10
11 140. Of course, subsequently, the Defendants continued to violate the law and even
12 organized new conspiracies to fix prices and were forced to plead guilty in 2015 for fixing
13 prices and agreeing to eliminate competition in the purchase and sale of US Dollars and Euros
14 and other foreign currencies.

15
16 141. The former Chairman of the Federal Reserve, Ben S. Bernanke, the former
17 Secretary of the Treasury, Henry Paulson Jr., and Timothy Geithner, the former President of
18 the Federal Reserve of New York, in their book entitled *Firefighting*, subtitled, “The Financial
19 Crisis and Its Lessons”, attributed the financial crisis of 2007-2008 to “The rise of ‘too big to
20 fail’ institutions, and the ubiquity of murky derivatives backed by shoddy mortgages.” As
21 noted above, LIBOR has been partially responsible for the 2007-2008 crisis because of the
22 rising cost at that time of LIBOR financed mortgages and the fact that the banks, being too big
23 to fail, could be held accountable.

VIOLATIONS ALLEGED

Sherman Act, Section 1, 15 U.S.C. § 1

142. Plaintiffs incorporate by reference the preceding allegations.

143. Defendants and their unnamed co-conspirators entered into and engaged in a conspiracy in unreasonable restraint of trade in violation of Section 1 of the Sherman Act.

144. Defendants' unlawful combination or conspiracy is an unlawful agreement to fix prices and is a *per se* violation of the antitrust laws.

145. During the preceding four years, Defendants set and controlled LIBOR and therefore controlled the interest rates of consumer loans and credit cards tied LIBOR offered and sold by them and their co-conspirators.

146. The conspiracy consisted of a continuing agreement, understanding or concerted action between and among Defendants and their co-conspirators in furtherance of which Defendants fixed the LIBOR interest rate pursuant to a formula that would insure that the LIBOR rate exceeded the lowest competitive rate of any of the competitor panel banks and thus insured that the prices and interest rates on consumer loans and credit cards and other financial instruments with rates tied to LIBOR that were published, offered, sold, and serviced by Defendants and their co-conspirators would generate a profit to the Defendants. The conspiracy and agreement among the Defendants was to fix, publish and promulgate and cause the use of the fixed LIBOR rate by banks and financial institutions in the United States and worldwide. All Defendants agreed to use the LIBOR rate that was fixed by formula and all agreed to cause the use of the LIBOR rate by other financial institutions worldwide.

147. Defendants did what they intended to do and, by fixing, publishing and promulgating the LIBOR rate, Defendants have caused other banks and financial institutions to use and include the LIBOR rate in the sale of their financial transactions and instruments for loans,

1 credit and otherwise. Defendants have been successful in their promulgation of the LIBOR rate
 2 and financial institutions throughout the world have adopted the illegally fixed rate and Plaintiffs
 3 have purchased financial products from these institutions that have contained the LIBOR price fix.

4 148. Defendants' conspiracy is a *per se* violation of the federal antitrust laws and is, in
 5 any event, an unreasonable and unlawful restraint of trade and commerce.

6 149. Defendants' conspiracy, and the resulting impact on the market for LIBOR-based
 7 consumer loans and credit cards occurred in or affected interstate and foreign commerce.

8 150. As a proximate result of Defendants' unlawful conduct, Plaintiffs have suffered
 9 injury to their business or property in that they have paid more for loans than they otherwise would
 10 have paid absent the conspiracy to set the LIBOR base rate. *Reiter v. Sonotone Corp.*, 442 U.S.
 11 330 (1979).

12 151. Plaintiffs have been injured and will continue to be injured in their business and
 13 property as a result of Defendants' conduct, by way of paying anticompetitive prices for fixed and
 14 variable rate interest loans and credit cards. *See* 15 U.S.C. § 15.

15 152. The Plaintiffs are each entitled to preliminary and permanent injunctive relief
 16 under Section 16 of the Clayton Antitrust Act, 15 U.S.C. § 26, for Defendants' violations of the
 17 Sherman Act alleged herein, and to recover their cost of suit, including a reasonable attorney's fee.

18 **Sherman Act, Section 2, 15 U.S.C. § 2 – Conspiracy to Monopolize**

19 153. Plaintiffs incorporate by reference the preceding allegations.

20 154. Defendants and their unnamed co-conspirators entered into and engaged in a
 21 conspiracy to monopolize in violation of Section 2 of the Sherman Act.

22 155. During the preceding four years, Defendants set and controlled LIBOR and
 23 therefore controlled the interest rates of consumer loans and credit cards tied LIBOR offered
 24 and sold by them and their co-conspirators.

25 156. Defendants have the specific intent to achieve monopoly power in the relevant
 26

1 market, as alleged in the paragraphs above.

2 157. In furtherance of the conspiracy, Defendants have committed several
3 overt acts as set out herein.

4 158. Defendants' conspiracy, and the resulting impact on the market for LIBOR-based
5 consumer loans and credit cards occurred in or affected interstate and foreign commerce.

6 159. As a proximate result of Defendants' unlawful conduct, Plaintiffs have suffered
7 injury to their business or property.

8 160. Plaintiffs have been injured and will continue to be injured in their business and
9 property as a result of Defendants' conduct, by way of paying anticompetitive prices for fixed and
10 variable rate interest loans and credit cards. *See* 15 U.S.C. § 15.

11 161. The Plaintiffs are each entitled to preliminary and permanent injunctive relief
12 under Section 16 of the Clayton Antitrust Act, 15 U.S.C. § 26, for Defendants' violations of the
13 Sherman Act alleged herein, and to recover their cost of suit, including a reasonable attorney's fee.
14

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiffs demand the following relief from this Honorable Court:

17 A. Declaring, finding, adjudging, and decreeing that the unlawful conduct alleged
18 herein be adjudged and decreed to be in violation of Section 1 of the Sherman Act;
19

20 B. Declaring, finding, adjudging, and decreeing that the unlawful conduct alleged
21 herein be adjudged and decreed to be an unlawful restraint of trade in violation of Section 2 of the
22 Sherman Act;

23 C. That Defendants, their subsidiaries, affiliates, successors, transferees, assignees
24 and the respective officers, directors, partners, agents, and employees and all other persons acting
25 or claiming to act on their behalf, be prohibited from continuing and maintaining the conspiracy
26 alleged in the Complaint;
27

1 D. Declaring, finding, adjudging, and decreeing that the LIBOR portion of any
2 agreement that includes LIBOR as a component of the fixed and variable interest rate charged
3 is illegal and void under the antitrust laws of the United States;

4 E. Prohibit the Defendants from enforcing the LIBOR portion of any agreement
5 for LIBOR-based fixed and variable interest rate loans or credit cards, in whole or in part;
6

7 F. Prohibit the Defendants from combining and conspiring to agree upon another
8 so-called benchmark rate to replace LIBOR;

9 G. Requiring that Defendants disgorge their profits to the United States Treasury
10 as determined by the actual rates charged less the lowest rate submission;

11 H. Requiring that the Defendants be divested and divided in accordance with the
12 protocols and blueprints that they were previously required to formulate if they engaged in any
13 further violations;
14

15 I. Awarding to Plaintiffs treble damages under Section 4 of the Clayton Antitrust
16 Act, 15 U.S.C. §§ 15, 26.

17 J. Awarding to Plaintiffs costs of suit, including a reasonable attorney's fee as
18 provided by Sections 4 and 16 of the Clayton Antitrust Act, 15 U.S.C. §§ 15, 26.

19 K. Granting to Plaintiffs such other and further relief to which they may be
20 entitled and which the Court finds to be just and appropriate.
21
22
23

24 **JURY TRIAL DEMANDED**

25 Plaintiffs Lisa McCarthy, *et al.*, demand a trial by jury as their right under the Seventh
26 Amendment to the Constitution of the United States or as given by statute. Fed. R. Civ. P. 38.
27
28

1 Dated: October 4, 2022

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2
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